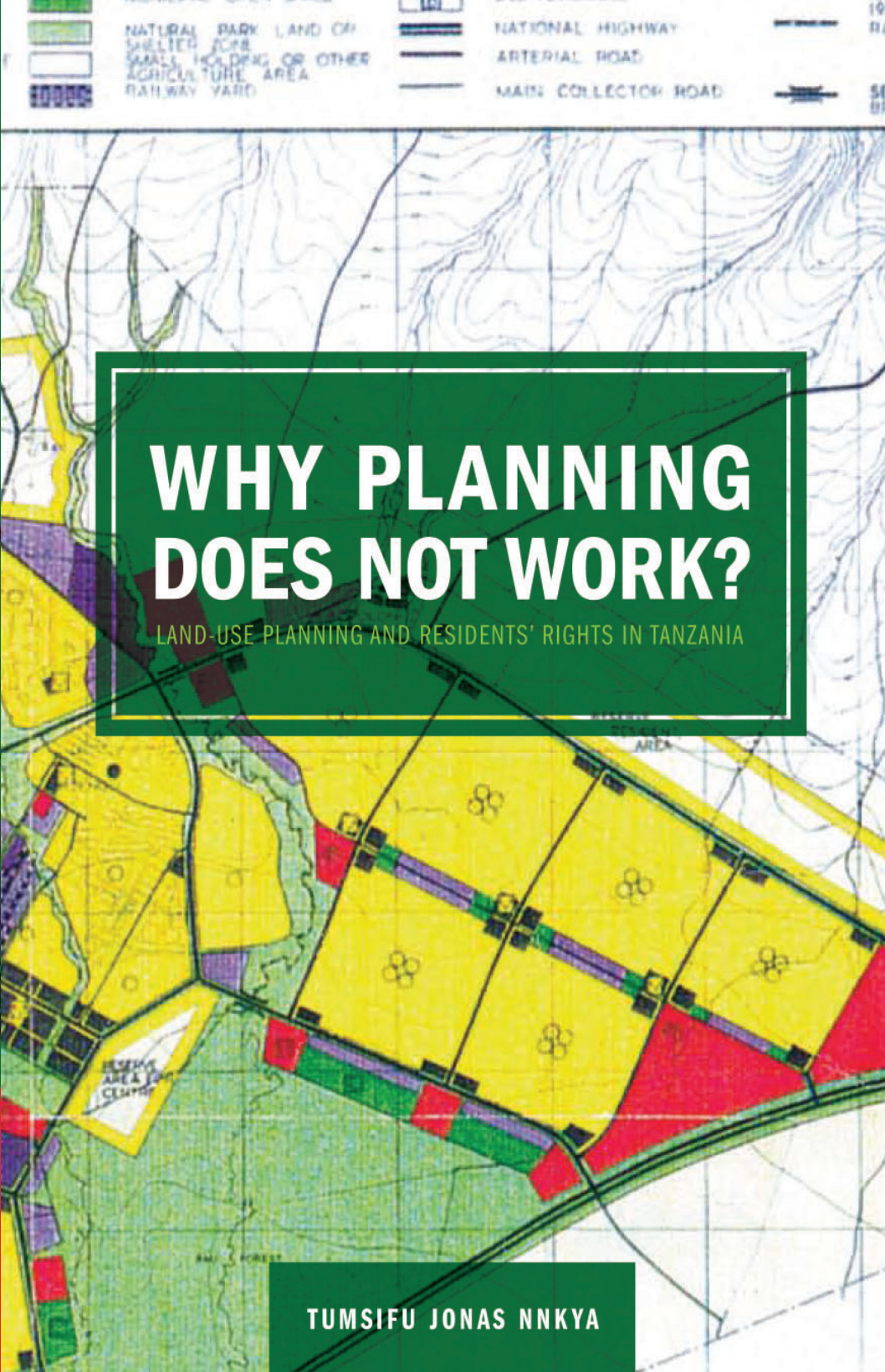




WHY PLANNING DOES NOT WORK?

LAND-USE PLANNING AND RESIDENTS' RIGHTS IN TANZANIA

TUMSIFU JONAS NNKYA

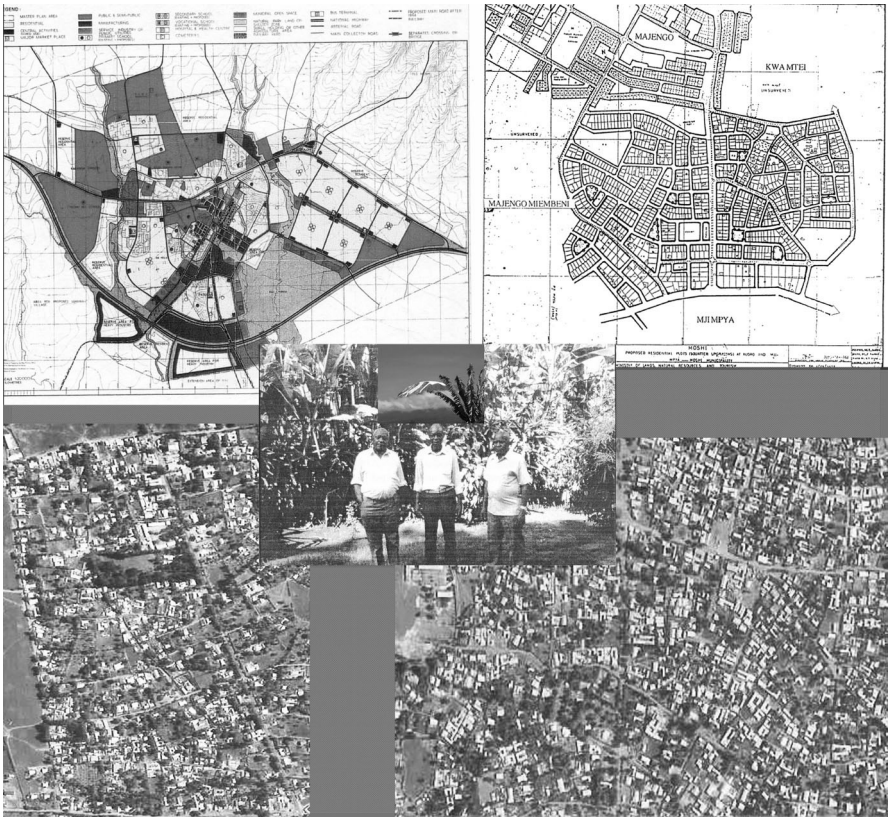
VISIT...

LANZAROTE
Caliente.COM

TUMSIFU JONAS NNKYA

WHY PLANNING DOES NOT WORK?

*Land-Use Planning and
Residents' Rights in
Tanzania*



First published 2007

Mkuki na Nyota Publishers
P.O. Box 4246
Dar es Salaam
Tanzania



© Tumsifu Jonas Nnkya

ISBN: 978 9987 449 68 2

Distributed worldwide outside N. America by African Books Collective
PO Box 721, Oxford OX1 9EN, UK
www.africanbookscollective.com, orders@africanbookscollective.com
Tel: +44 (0)1869 349110

Distributed in North America by Michigan State University Press
1405 South Harrison Road, Suite 25 Manley Miles Building
East Lansing, MI 48823-5245, USA
www.msupress.msu.edu, msupress@msu.edu
Tel: +1 517 355 9543

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without the written permission of the copyright holder or the publisher.

Contents

<i>Preface</i>		<i>vii</i>
<i>List of Figures</i>		<i>xi</i>
<i>List of Plates</i>		<i>xiii</i>
Chapter 1	Introduction	1
Chapter 2	The Moshi Master Plan	11
	Urban and Regional Development Strategy in the 1970s	13
	Preparation of the Master Plan	18
	Presentation of the Draft Plan and the Actors Involved	27
	Assumptions, Objectives and Policies	28
	Approval of the Plan and Early Doubts on Its Efficacy	32
	Summary	36
Chapter 3	Adoption of the Plan	39
	Expansion of the Town Administrative Boundary	40
	Protests by the Excluded Stakeholders	43
	The First Major Drawback	48
	Summary	50
Chapter 4	For the Sake of a Good Plan	53
	Msaranga Settlement	55
	Residents' Meaning of Land	56
	Preparation of the Plan	60
	Survey of Plots	64
	Efforts to Discontinue Survey of Plots	69
	Summary	73
Chapter 5	Protests against the "Good Plan"	77
	Establishment of Residents' Committee	80
	Seeking Legal Advice	84

	Political–Administrative Persuasion	86
	Summary	94
Chapter 6	The Council is Charged with Trespass	95
	The Complaint	96
	Hearing and Ruling of the Application for Court Injunction	101
	Summary	106
Chapter 7	Suppression of Conflicts	109
	Impeachment of the Msaranga Chairman	109
	A New Strategy to Facilitate the Stalled Plots Survey	112
	Banned from Leadership for Sixty Months	113
	Help Is Sought from the President	117
	Hearing of the Main Legal Suit against the Council	120
	Adding Salt to a Wound: Valuation for Property Tax	123
	Quest for Survey Permission	126
	Departure of the Plaintiff's Counsel	128
	Summary	130
Chapter 8	Retreat to the Lawful Planning Area	133
	Attempt to Regularize Miembeni and Mji Mpya Settlements	133
	Response to Chaos Caused by Creation of Plots	142
	Summary	146
Chapter 9	A Strategy to Safeguard Land Rights	151
	Longuo Settlement	152
	Invitation to Planners	160
	The Councilor's First Agenda	167
	Planning without Planners	169
	Summary	175
Chapter 10	The Planners' Response	177
	Planning without Residents	177
	Approval of the Planners' Plan	185

	The “Cynic Planner”	192
	Summary	197
Chapter 11	Rationalization of Change of Use	201
	Moves to Expropriate Land	201
	Expropriation of Land for a Psychiatric Institution	203
	The Villagers ‘Eye’ the Land	205
	Custodians Surrender the Land to Themselves	206
	Objection, Counter-Objection and Lobbying	210
	Ratification of the Expropriation Plan	215
	Summary	218
Chapter 12	Sharing Expropriated Land	221
	Attempt to Protect Public Interest	221
	The Winner Takes All: Allocation of Plots before Plan Approval	225
	“The Little Child”: “ <i>Vigogo Wapora Ardhi ya Vichaa</i> ”	229
	Re-writing History: It Was Zoned for a Regional Hospital	231
	Summary	233
Chapter 13	In the Name of Employment Creation	237
	Revocation of Land Rights of a Public Institution	238
	Ratification of the Change of Use and Reallocation	240
	Objection by the First Holder	243
	The Planner in a Dilemma	248
	Approval of the Change of Use	249
	Summary	250
Chapter 14	Guilty of Illegal Practice	253
	Changed Political Context	253
	Eight Years Later: The Suit Was Wrongly Filled in the High Court	257
	Agreeing on the Issue to Be Determined	261
	Was the Boundary Expansion Lawful or Unlawful?	265
	Was the Master Plan Lawful or Unlawful?	269

	Planners Denounce the Master Planning Approach	270
	Summary	272
Chapter 15	Making Planning Work	275
	The Sustainable Cities Programme	276
	The Sustainable Moshi Programme	279
	Improving Information	282
	Prioritization of Issues, Negotiation of Strategies, Formulation and Implementation of Action Plans	283
	Summary	288
Chapter 16	Exclusion, Insensitivity to Land Rights and Land Value as Sources of Ineffectiveness of Planning	291
	Planning as a Platform for Power Struggles Over the Disregarded Land Value	294
	Defective Land Policy and Legislation as the Context for Insensitive Planning	301
	Exclusion of the Residents in Disregard of the Law	306
	Rational Comprehensive and Technocratic Planning Model	309
	Strong Civil Society as a Pillar of Democracy	313
	<i>Notes and References</i>	<i>317</i>

Preface

This is one of two books, a product of research on urban planning practice in Tanzania over the past three decades. The research and publications are funded by the Danish International Development Agency (DANIDA)'s programme of Enhancement of Research Capacity (ENRECA). The present book provides a detailed account of how the Tanzanian land-use planning system was put to work in the context of public land-ownership policy; one party political-administrative system and centrally planned economy. Though the public land ownership policy has remained unchanged, certain features of the policy, with implications for land-use planning, have changed. Likewise, over the past two decades multi-party political system and market economy have replaced the single-party political system and command economy, respectively. The second book will provide an account of changes that have taken and continue to take place in the planning practice under the political pluralism and liberal economy.

Tanzania like many other developing countries is experiencing rapid urbanization in a situation of very limited capacities to cope with the requirements arising thereof. Under the circumstances, urban growth is taking place increasingly unguided, regardless of the planning efforts to ensure managed urban spatial change. In an attempt to establish what underpins the apparent ineffectiveness of planning, the present book which is based on case method and narratives of practice stories, explores how the Tanzanian land-use planning system was put to work. It is shown that planning proceed was dominated by planners among other technocrats, excluded or inadequately involved those affected by planning decisions and disregarded their land rights as well as other interests in a place. In doing so, planning created insecurity of land tenure and investments in land, undermining people's initiatives to improve their living conditions and eventually eradicate poverty.

In the context of the public landownership policy, planning decisions were based on a notion that land had zero exchange value, and the government as the main developer and provider. This contributed to insensitivity to land rights and exclusion of those affected by planning

in the decision-making. The case demonstrates that planning is both a technical and a political interactive process involving planners as well as other actors in the political-administrative and judicial systems. The decisions by the actors are not neutral, but influenced by, *inter alia*, their self-interests which are sometimes pursued in the planning system at the expense of the society at large. This was done by rationalizing such decisions and actions whose outcomes include loss of trust and confidence in the government. The form of planning that has been in practice is identified as technocratic, prescriptive, and non-inclusive. It is shown that an attempt to redress the ineffectiveness of planning has ushered to an initiative towards collaborative and inclusive form of planning. The initiative is beginning to make planning work and play its role in guiding spatial and environmental change for sustainable development. This outcome is likely to improve image of the planners and planning as well as restore credibility of the government. The changes in the planning practice are being monitored and documented as inputs to the second book.

I wish to thank the Danish International Development Agency (DANIDA) for funding the research on which this book and the forthcoming one is based.

Different people have contributed in various ways and encouraged me to publish the present book. I would like to thank them all and mention the following persons: Jorgen Andreassen of the Royal Danish Academy of Fine Arts, Bent Flyvbjerg of Aalborg University, Patsy Healey of University of New Castle Upon Tyne, and Vanessa Watson of University of Cape Town. Andreassen brought me in contact with DANIDA 25 years ago when I first arrived in Denmark for postgraduate studies. We have since collaborated in postgraduate training and research on human settlements development and planning. Flyvbjerg is my mentor in the use of case method and narratology in planning research. He continues to inspire my understanding of the question of power in decision-making. I thank him most sincerely for this capacity that has in turn enabled me to build the capacity of my colleagues and students during the past 10 years. Besides their encouragement to publish this book, Patsy and Vanessa continue to shape my understanding of planning theory.

The case story is a result of responses I got from the many respondents I interviewed and re-interviewed, various documents I analysed, physical observations and interactions I made during the research

period. I am very grateful for the excellent cooperation I got from the respondents and the time they spared to respond to the long interviews. I should particularly thank the following people: Denis Chuwa, the former Lord Mayor of Moshi Municipal Council; Peniel Macha, the former Party Chairman for Msaranga Ward; Dr. Merinyo Maro; the late Abidinego Kiwelu; and Naftali Ringo. I am also indebted to Lameck Masembejo, the former Head of the Planning Department, now Director of Babati Town Council; Nuru Kinawiro, Ringo; Fatuma Kuyonza; Albert Mwaigomole; Godbless Kimaro; Robert Masanja Kanoni; Alphonse Mwashinga; Shwaibu Semboja; and Alex Poteka. Finally, without the sabbatical leave I got from my employer in 2005 I would have not been able to complete this book in addition to other publications and research activities that were accomplished. In this regard my gratitude should go to the management of Ardhi University and the staff at the department of urban and regional planning who shouldered my teaching responsibilities during the leave.

List of Figures

Figure 2.1	Moshi municipal and ward boundaries	12
Figure 2.2	The 1962 Moshi town planning scheme	19
Figure 2.3	The 1968 Interim Land Use plan	20
Figure 2.4	Land tenure and municipal administrative boundaries over time	23
Figure 2.5	Moshi master plan: land use as it was expected to be in 1994	33
Figure 3.1	Areas included into the Moshi Town after the 1978 boundary extension	41
Figure 3.2	Airport area where the first layout plan could not be implemented	48
Figure 4.1	Msaranga sub-case study area	54
Figure 4.2	Msaranga layout plan	63
Figure 8.1	Mji Mpya and Majengo Miembeni sub-case study areas	134
Figure 8.2	Mji Mpya approved layout plan	139
Figure 9.1	Longuo “B” sub-case study area	152
Figure 9.2	Preliminary survey 1991	174
Figure 10.1	The planners’ approved plan	181
Figure 11.1	Farm 148/1 – psychiatric unit sub-case study area	202
Figure 11.2	Farm 148/1 layout plan of 32 plots	208
Figure 12.1	Farm 148/1 layout plan of 64 plots	223
Figure 12.2	Farm 148/1 approved survey plan	225
Figure 13.1	Industrial plot no. 76, block III	238

List of Plates

Plate 4.1	Part of Msaranga and Kiboriloni 1983	56
Plate 4.2	Part of Msaranga and Kiboriloni 1982	57
Plate 4.3	Part of Msaranga and Kiboriloni 2003	57
Plate 5.1	Some of the members of the Residents' Committee	81
Plate 8.1	Mji Mpya and Majengo Miembeni 1983	135
Plate 8.2	Mji Mpya and Majengo Miembeni 1992	136
Plate 8.3	Mji Mpya and Majengo Miembeni 2003	137
Plate 9.1	Longuo settlement 1973	153
Plate 9.2	Longuo settlement 1983	154
Plate 9.3	Longuo settlement 1992	155
Plate 9.4	Longuo settlement 2003	156
Plate 10.1	Spatial development proceeds contrary to the planners' plan	199

Chapter 1

Introduction

Land use planning . . . inherently involves complex assessment of needs and demands and the relation between social process and spatial form . . . It involves difficult evaluations of the relative priorities to be accorded to different interests and values. But the way these assessments and evaluations are made is influenced by the values and power relationships established within the practices of the planning system. If, therefore we are to understand how the planning system has been put to work, whose values and interests have been emphasized, and who may ultimately benefit, our analysis must carefully unravel the complex processes through which the system is realized.¹

Patsy Healey et al.

Planning is justified by inadequacies of the market to produce outcomes which are satisfactory to the society as a whole; the concern for sustainable use of natural resources; the existence of externalities; the need to redistribute income and wealth to avert social disparities and subsequent outcomes such as crime and political instability; the need to promote and direct social and economic growth and development; and the need to ensure equitable development and social justice. Urban and regional planning is one of the mechanisms through which governments intervene in the change of the built and natural environment so as to ensure social equity and justice; orderly spatial development; safety; efficiency; convenience; and harmonious relation between development and the environment. These qualities may be desired by all those living in an urban or rural place, but would not be realized through their fragmented decisions and actions which are unavoidably driven by their self-interests.² Other forms of interventions include administrative controls; use of fiscal incentives or disincentives to promote or discourage development, respectively; provision of infrastructure and public services to promote development; or provision of services of a public good nature which are normally unattractive to the private sector to provide.³

The urban planning being discussed in this book has its origin in architecture and public health engineering. According to Stephen Ward its impetus came from the massive industrialization of the 19th century in Europe that prompted large population growth and population movement to urban areas. The consequence was unprecedented growth of towns so that conditions for the average family were very poor and in-sanitary. The poor living conditions, particularly with respect to housing, produced a general public health risk through inadequate water and sewerage systems for the dense urban population. The result was epidemics, particularly cholera in the 1840s and the consequences of which affected more than the occupants of inadequate housing. This event prompted the enactment of the Public Health Act of 1848, the legal framework for ensuring sanitary living conditions, within which sanitary bye-laws specifying minimum housing standards in terms of street width, dwelling design, and construction.⁴

However, not until 1906 when the Town and Housing Act was enacted *town planning* found its way in the legislation, marking the beginning of the institutionalization of town planning as a profession. This Act empowered local authorities to prepare schemes for regulating sub-urban growth. Gradually town planning activity gained importance as a separate activity, so that in 1925 it was separated from housing. This necessitated a separate legislation, Town and Country Planning Act of 1932, which empowered local authorities to prepare planning schemes for any land including built-up areas and land earmarked to be developed in the not too far future. Once approved, development in the planning area was subject to local authority control; ministerial approval of the plans, their modification, and amendment was required. And from 1943, a separate ministerial responsibility for planning was established, separating it from the Ministry of Works which until then handled planning as well. The 1932 Act was reviewed so that in 1947 a comprehensive planning legislation, Town and Country Planning Act, was put in place. This made it compulsory for local authorities to prepare development plans for urban and rural areas, indicating zones allocated to main uses, the main transport routes, mineral areas, woodlands, green belts, etc. Unlike the provision of the previous Act which implied that after zoning, development rights had been created, under the 1947 Act, planning permission had to be obtained from local authorities.⁵ The main thrust of planning, as it was practised in England at that time, was the arrangement of land uses to achieve spatial order, economy, beauty, and safety and

health. This spatial focus or “physical determinism” is summarized in Lewis Keeble’s definition of town and country planning as “the art and science of ordering the use of land and the character and siting of buildings and communication routes so as to secure and maximize the practicable degree of economy, convenience, and beauty.”⁶ Although Keeble’s conception of planning has over the years been modified to include social, economic, and political considerations, planning practice in Tanzania remains concerned primarily with spatial issues.

The history of urban planning in Tanzania goes back to the colonial period, particularly during the British administration which introduced the Township Development Control Ordinance of 1936. This Ordinance was based on the British Town Planning Act of 1932, and provided for preparation of town planning schemes, the control of subdivision of land into plots and provision of space for new streets. In 1956, the Township Development Control Ordinance was replaced by a more comprehensive legislation, the Town and Country Planning Ordinance Cap. 378. Like the previous one, this legislation was based on the British Town and Country Planning Act of 1947 which had replaced the British Town and Country Planning Act of 1932. The Tanzanian Town and Country Planning Ordinance Cap. 378. specifies the scope of town and country planning as: use of land and buildings, intensity of use of land and occupancy rate, size, form and construction materials of buildings, siting of buildings, alignment of and reservation of land for roads and other physical infrastructure, preservation of natural and man-made features as well as regulating and controlling the disposal of refuse and pollutants. Both the central and local governments have a responsibility for planning and management of urban and rural development. Both the Land Act No. 4 and Village Land Act No. 5, enacted in 1999 to repeal the Land Ordinance Cap. 113 of 1923, provide the legal framework for land tenure and land administration in Tanzania mainland. In the context of the Land Act, all the land is under public ownership. The President of the United Republic of Tanzania is the trustee on behalf of the citizens. In contrast to the repealed legislation land is assigned an exchange value⁷ implying that in case of displacement of land rights, the holder is entitled to a full and fair compensation for the value of land and development on it. Previously land right holders were only compensated for what in the law was referred as “unexhausted improvement” – buildings and/or crops.⁸ Two types of rights to use the land are recognized: government granted right of

occupancy for 33 and 99 years and customary rights of occupancy in the rural areas. Pursuant to the Village Land Act No. 5, customary rights are supposed to be registered and holders of land rights will be issued with a certificate of customary rights of occupancy. Section 7 of the Act provides the survey and registration of village land so as to enhance villagers' security of tenure to the land they occupy and use.

The planning legislation provides for preparation of a general planning scheme, in practice a master plan, as the framework within which urban spatial change should be guided and regulated. It also provides for preparation of a detailed planning scheme which in practice is a plot subdivision plan, commonly referred by planners as a town planning drawing. These are prepared to comply with policies and standards prescribed in a general planning scheme or master plan and its preparation follows Patrick Geddes's process of survey, analysis, and plan.⁹ The ideology underlying the general planning scheme draws on the 1940s and 1950s conceptualization of planning as design and government as the provider and orchestrator of development. Patsy Healey tells us that at that time town planning was conceived as "... centrally focused upon the technical processes of preparing plans to remedy and improve the conditions of towns. Plan preparation involved survey of existing conditions, certain calculations to establish the population size and scale of activities to be accommodated in a town and the translation of these quantities into a physical arrangement through the use of various town design principles described by Keeble as 'planning theories'."¹⁰ The planning legislation vests powers of planning to the Minister who may delegate such powers to local authorities. This centralized and technocratic planning system is still in place with the Ministry of Lands, Housing and Human Settlements Development being responsible for approval of all plans prepared by the local authorities, countrywide.

The state of world's cities report 2006/2007 informs us that "the year 2007 will mark a turning point in human history: the world's urban population will, for the first time, equal the world's rural population."¹¹ It is reported that this milestone will mark the advent of a new urban millennium when 50 per cent of the entire world population will be city inhabitants. Whereas Europe, North America, and Latin America have long passed this mark, with at least 75 per cent of the inhabitants already living in towns and cities, in Asia and Africa – developing part of the world – 65 per cent of the inhabitants are still living in rural areas. However, whereas urbanization – increased concentration of people in

urban places – in the developed world's cities is taking place at an average rate of 0.75 per cent a year, in Sub-Saharan Africa the rate is 4.58 per cent, in Northern Africa 2.48 per cent, in South-Eastern Asia 3.82, in Eastern Asia 3.39 per cent, and in Southern Asia 2.89 per cent. Urbanization creates enormous opportunities for development but it also presents challenges for urban planning and management. The opportunities are embedded in the potential of cities as centre of intellectual and innovations, social and cultural exchange, centre of services and communications, centre of commerce and industrial production, and many others. Realization of these potentials makes a town or a city to serve as engine of local and regional hinterland economic growth. The challenges are however numerous and include: inadequate and unaffordable shelter; inadequate infrastructure particularly lack of safe drinking water and inadequate sanitation; overcrowding; insecure tenure; growth of slums and informal settlements; inadequate formal employment and subsequently growth of informal livelihood activities; vehicular traffic congestion; air pollution; and increased crime rate. The developing countries are particularly confronted with these challenges primarily because of low level of economic development, and subsequently very limited financial resources and technical capacities to cope with these challenges of urbanization.

Tanzania, whose 35 million people recorded in the August 2002 population census, is predominantly rural (77 per cent of the population is living in rural areas), but urbanization is taking place at a high rate of 4.5 per cent per year. Dar es Salaam, the seat of the government, the major centre of commerce, industry as well as education, has a population of at least 2.3 million people, six times larger than the next largest city. The challenges of urbanization outlined above are all experienced in this country where between 60 and 80 per cent of the urban inhabitants, depending on the level and rate of urbanization, live in informal settlements. Unlike similar settlements in other countries, in Tanzania, most houses in the informal settlements are of relatively good quality and some basic infrastructure and services are formally provided by utility agencies or in collaboration with residents and local authorities. Three interrelated factors have contributed to making the settlements livable: the public landownership policy; more than 40 years of a supportive government policy on informal settlements whereby such settlements are supposed to be upgraded instead of being demolished; and a mixed social and economic status of the developers and residents of the settlements, primarily due to shortage

of surveyed and serviced plots. Whereas the public landownership policy has somehow contributed to keeping the land prices low, the supportive government policy has ensured tenure security to developers and residents in such areas, where mostly developers confidently build permanent houses and get connected to services such as electricity and water right from the start. The mixed social and economic status of the residents, besides averting the phenomenon of a divided city, has constituted an asset for infrastructure provision and upgrading. Among the main challenges facing urban local authorities include: unplanned spatial growth and urban sprawl, inadequate infrastructure and services; unmanaged solid waste and poor sanitation; pervasive land development conflicts and disputes. These problems undermine sustainable growth and development of the urban places and their role as engines of social and economic development. Efforts to guide and regulate urban spatial growth and development have increasingly failed.

This book provides a detailed account of how the Tanzanian planning system was put to work in the management of urban spatial change with the view to showing what underpins the ineffectiveness of planning. Based on the case method and narratology, and focused on process of land use planning, its context and outcomes, the account takes the reader across a rugged terrain of power struggles between actors in the planning system and residents whose right to participate in the decision-making process is denied while their land tenure rights, economic, and cultural interests in land are disregarded by planning. The results are far-reaching disputes that pervade the land development process over years so that some planning interventions by the local authority are restrained by the residents who do so in protection of their land rights and other interests in land. Despite this response, where planning is brought to bear, it adversely affects the means of livelihoods, prompts insecurity of land tenure and investments in land, strains relationship between the local authority and communities, and contributes to loss of confidence and trust in the local authority and government in general. As a consequence, opportunities for collaboration and partnership to foster urban development are undermined, whereas urban development proceeds increasingly unplanned, with detrimental effects to people's living conditions and the environment.

Through protests, championed by some influential residents in collaboration with local leaders, sufficiently courageous to confront actors in the political-administrative and planning system, communities

demonstrate awareness of their rights, capacity to organize and use power of the better argument to defend such rights in the face of power exercised by actors in-charge of the system. The organized struggles are greatly facilitated by a few well-educated community members who constructively back up local leadership and themselves engage in the struggle to the end. Those in-charge of the political-administrative and planning system, including planners, find themselves ill-equipped to counter the communities' voices and arguments, instead they resort to exercising powers and authority available to them to suppress the struggles and implement plans that disregard residents' interests. In response, to demonstrate that they are not completely powerless, residents exercise powers available to them to restrain implementation of the plans. Moreover, they seek intervention of the judiciary by filing a legal suit against the local authority. For no good reasons, justice providers take ten years to provide justice. This delay not only puts unnecessary cost to the residents, but also contributes to insecurity of tenure and subsequently investments in land. The consequences are increased poverty as informal land subdivision and selling takes place for fear of losing the land to the local authority with no compensation, in case the legal suit is determined against them.

Meanwhile, those in-charge of the political-administrative system tactfully suppress the protests but this does not really succeed. Instead suppression galvanizes residents who intensify struggle, get more engaged and embark on alternative strategies to safeguard their land rights and other interests in land while at the same time claiming their legally entitled space in the decisions that affect their lives. One such strategy entails an invitation to planners by the residents to collaboratively reshape their settlement. This gesture of collaborative planning suggests residents' appreciation and awareness of the need for planning, but detest the way it is done disregarding their interests and excluding them as if they do not matter. It also illustrates the residents' capacity to organize and the existence of relationships of trust among them.

However, the way planners respond to this invitation suggests either "professional blindness" to opportunities for shaping the built environment or (and) lack of capacity and motivation for inclusive planning. It is shown that while planners fail to recognize and capture this opportunity, a land surveyor does so and facilitates residents to negotiate agreements on land regularization, an output that residents identify with as their plan. These agreements are later disregarded by

the planners who without consulting with the residents prepare a regularization plan and secure its approval for implementation. However, to-date spatial development in the settlement proceeds according to the residents' regularization plan while the planners' plan lies quietly in the planning office. This outcome, as the case story shows, was expected by the planners. They knew too well that their plan represented a waste of the scarce public resources but justified their existence. Perhaps what did not seem obvious to the planners is the fact that such cynical practice contributed to their own marginalization in the development process as they continue making many plans but no impact on the spatial development; that their replacement by a land surveyor, who successfully facilitated the residents to shape their built environment, threatened and challenged their very existence as professionals.

As the case story unfolds it is shown that, while the driving force underpinning the protests and resistance against planning is explicit, – the social and economic value of land, the real motivation of those in-charge of the planning system remains hidden and presented explicitly or implicitly as concern for “public interest”. Eventually, however, this reveals itself as self-interest. This becomes apparent through successful and unsuccessful moves to misuse and abuse the planning system to rationalize their self-interests. Such motives are also demonstrated through the dubious manner and unusual speed at which the processes of change of use of spaces zoned for public use are pursued in the system. The first such change of use involves land zoned and partially developed for an institution for psychiatric patients' institution; followed by unsuccessful attempt to change use of land belonging to prisons; and land designated for a state-owned industry. While the space zoned for the said psychiatric patients' institution is subdivided and allocated to the influential, the latter is subdivided and allocated to a private businessman, among others, ostensibly for growing flowers in a green house.

These apparently land grabbing moves prompt public outcry while dissatisfaction, accompanied by pervasive and unresolved disputes in land development contribute to distrust and loss of confidence in the government. Moreover, after elapse of 10 years, justice providers pass judgement on the legal suit in favour of the residents and against the council for unlawful practice. These among other events add to the lost credibility and trust in the government so that eventually the ruling party suffers a defeat in the first multi-party election in the urban constituency as well as in some urban wards, which fall into the opposition parties.

Meanwhile, given the pressure from the organized and courageous communities, failure to manage urban development as desired, the local authority is compelled to search for, and eventually engages in an alternative planning approach that advocates consultation and participation of stakeholders in the planning process. This is introduced under a flagship of Sustainable Moshi Programme whose overall goal is to enhance the capacity of local authority to plan and manage urban change collaboratively with other stakeholders. Specifically, the programme promotes consultative and collaborative planning and management process which aims at improving information and expertise, improving strategies and action planning, and also improving implementation of the strategies to tackle prevailing developmental issues. It is shown that planning is gradually becoming inclusive and respectful of residents' land tenure rights as the planners plan with the residents among other stakeholders. Given this shift, residents are cooperating with the planners to make planning work. Planners are beginning to be trusted and viewed as public servants whose interest is to contribute to improvements of people's living conditions, rather than land grabbers.

What emerges from this case story is that the unmanaged urban spatial change which characterizes urban places in this country is a result of undemocratic planning practice; disregard of residents' rights; inability of the planners to recognize and make use of opportunities for shaping the built environment; lack of motivation and/or capacity, and subsequently lack of skills for inclusive planning. The unmanaged urban change is also a consequence of technocratic, unlawful, and corrupt practices characterized by lack of transparency and accountability in the planning system, so that sometimes the system is misused and abused to justify self-interest of a few more powerful, influential, and well-to-do individuals, at the expense of the society at large. The poor are particularly affected because they are either unaware of their rights or they are aware but unorganized and lack economic capacity to pursue such rights in the appropriate political-administrative and legal organs of the state. Even when the poor can do so, power is sometimes used to suppress their voices, delivery of justice is delayed, the consequence being despair and hopelessness, increased poverty, loss of confidence and trust in the government.

However, where there is courage to organize, perseverance, and confidence to confront and speak truth to the actors in the political-administrative system and if economic capacity to pursue their rights

in the judicial system is available, encouraging results can be achieved, though sometimes too late to prevent poverty and accompanying miseries. The courage to organize and confidence to speak the truth to power have compelled planners to gradually engage in inclusive and collaborative planning that takes into account residents' land rights and interests in a place. This is proving beneficial to both the residents and the planners whose interventions are now beginning to work in shaping the urban change. This shift in planning practice is likely to restore the eroded trust in, and credibility of the government at central and local levels, hence enhancing its legitimacy to govern.

The key additional messages, hence the conclusions from the case story are the following: residents, among other stakeholders, recognize the value of planning but detest the way it is done without involving them and disregarding their interests, values, and rights as if they do not matter. The protests by the residents are a rejection of the way planning is done, rather than a detest of planning as a tool for mediating conflicts of interests and management of urban change. Thus, planning does not work because of exclusion of stakeholders in the planning process, and disregard of their rights, as well as other interests in land. The ineffectiveness of planning is also a result of defective land policy and legislation, and planner's inability to recognize and make use of opportunities for shaping the built environment.

Lack of transparency and accountability in the planning practice allow for misuse and abuse of the planning system to serve interests of the more powerful and influential groups, including those entrusted with the powers of planning. The outcomes of a non-inclusive, non-transparent, and insensitive planning include: insecurity of land tenure rights and subsequently investments in land; poverty; informal land subdivision and building; unplanned spatial growth, and endless conflicts in land development. These are detrimental to the residents and erode their trust and confidence in the government.

It takes an organized, informed, confident, and courageous group of residents or community to reject the non-inclusive form of planning and cause adoption of inclusive and collaborative planning that allows them space in the planning process. The achievement of such an organized group – a turn towards democratic planning practice – leads to a conclusion that informed, organized, confident, and courageous civil society is a pillar of democracy. Thus, building capacity of civil society to engage these in the political-administrative system is a reassuring path to democratic practices.

The Moshi Master Plan

The fine-grain of detailed practice is as important for the potential invention and subversion of regulatory regimes as is the enactment of legislation. This means that as researchers, we need to analyse the ethnography of institutional practices to identify the way regulatory regimes are shaping and being shaped by the political, economic and social processes in which they are embedded.¹

Patsy Healey

Structure Plans and Local Plans create new maps of land value, producing vast extra wealth for some land-owners and none for others.²

Peter Ambrose

The Moshi master plan was conceived, prepared, and implemented in a period of major political-ideological change, which entailed major rearrangements of the political-administrative system as well as a reorganization of the economy and the adoption of policies which were aimed at building a socialist and self-reliant egalitarian society. In this chapter, therefore, I begin with an overview of those rearrangements which provided a part of the context and institutional arena for decision-making and action in land development and planning. I then describe and analyse the process of preparation of the master plan, seeking to understand who was involved, for what reasons, through which mechanisms, the assumptions, objectives and policies contained in it, and the arguments advanced for such policies. Plan preparation being one of the important components of planning, I hope that the description and analysis of the Moshi master plan will reveal how land-use policies for Moshi were formulated and the extent to which they are related to the local as well as national social, economic, and political contexts, including the interests of people in their localities, so as ultimately to foster their development without compromising environmental sustainability.

Moshi Town, with a population of 144,336 inhabitants recorded in the 2002 national population census, is the major commercial and administrative centre in Kilimanjaro region, an administrative region with an area of 13,210 square kilometres inhabited by 1,376,702 people (recorded in the 2002 national population census) whose mainstay is the coffee economy, which is sustained by fertile volcanic soils on the foothills of Mount Kilimanjaro. The town, presently with an area of 70 square kilometers which constitute 13 administrative wards (see Figure 2.1), has developed 10 kilometres downhill from Old Moshi, where the Germans established a military and administrative post to control the region in the 1890s. The German colonialists shifted the administrative post at Old Moshi to the new Moshi in 1911, when the northern railway (Dar es Salaam to Moshi) reached the lower part of the foothills.

The railway facilitated the effective exploitation of resources in the region and their export to the metropolitan states of Europe. This process was perpetuated by the British colonialists, who in 1919 took the responsibility for the Tanganyika colony following Germany's defeat in the First World War. It was during the British Era that Moshi

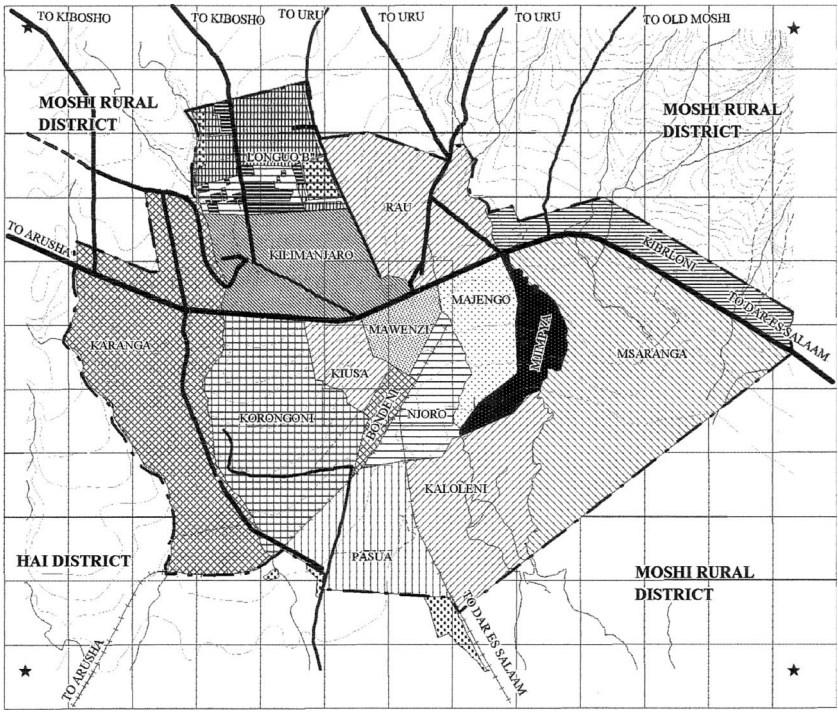


Figure 2.1: Moshi municipal and wards boundaries

Town began to flourish as a centre of the British colonial administration and a shopping centre mainly for the European farmers, who occupied large tracts of land in the region for large-scale coffee and sisal cultivation. Commercial activities were carried out mainly by Asian merchants, who also developed most of the relatively high-value private properties in the central part of the town.

The flourishing economy of Moshi Town began to change in 1967, following the adoption of the Arusha Declaration as the blueprint for the socialist transformation of the economy. Afterwards, most European farmers and Asian merchants left the country, because their farms and properties were nationalized as required by the Arusha Declaration, which entailed nationalization of the major means of production: the major industries, plantations, financial institutions, and all non-owner-occupied buildings whose value at that time was US \$20,000 or above. Most of these investments belonged to the Europeans and Asians. With the exception of the large-scale plantations, all other nationalized investments were located in the towns. As a consequence of nationalization, the property market was stifled and the central part of the town, where most of the nationalized properties were located, began to deteriorate, mainly because of poor maintenance of the nationalized properties.

Urban and Regional Development Strategy in the 1970s

Concerned by the growth of Dar es Salaam – which attracted the largest share of public and private investments relative to the regional towns; which served as important growth poles for their regional hinterlands – in the Second Five Year Plan for Social and Economic Development of 1969–1974, the government acknowledged that:

The pattern of rural development not only results from what is attempted in the countryside, but also in part in response to the nature and location of urban growth. A firmly defined and energetically implemented long-term policy towards urban development is necessary if: (a) urban development is to act as a stimulus and complement to rural development; (b) unacceptable urban development conditions are to be avoided; (c) the cities are not to become an increasing drain on the country's financial and physical resources.³

Given this awareness, the government adopted a strategy of urban development which entailed the selection of nine urban centres, in addition to Dar es Salaam, which would be promoted as “growth poles” to stimulate development in their respective regional hinterlands. The “growth poles” were selected from what were identified to be eight zones of population concentration, including:

... Greater Dar es Salaam (region); Tanga and its hinterland; Kilimanjaro and environs (Arusha region included); East Lake (Mwanza, Mara and Shinyanga); West Lake (Bukoba); Kigoma; Southern Highlands (Iringa, Mbeya, Rukwa, Ruvuma); Southern Coast (Mtwara and Lindi); ...⁴

Moshi Town was selected as one of the designated growth poles, others being Dar es Salaam, Tanga, Mwanza, Arusha, Dodoma, Tabora, Mtwara, Mbeya, and Morogoro. These urban centres would receive industrial investments for the purposes of:

slowing down the excessive growth of Dar es Salaam (and) act as eventual self-sustained growth in other parts of the country ... Apart from the location of new industries, government will make major contribution to the success of such policy by decentralizing certain government functions ...⁵

In a review of “Urban Planning and the Post-Colonial State in Africa”, Akin Mabogunje informs us that the growth-pole strategy emerged out of the work of the French economist Francois Perroux, who claimed that it “provided the rationale for polarized development within regions and encouraged urban planners in many African countries to strive to develop (selected) urban centres as a counter-magnet to the capital city which was often the principal port and major industrial centre in the country.”⁶ Although it is outside the scope of this study to discuss the application of this strategy, it is instructive to mention in passing that its application did not lead to the expected results, because as Graciana Peter has established, the primacy of Dar es Salaam and the regional inequalities which the strategy aimed to reduce have persisted. She asserts that “the dominance of the coastal areas, and, in particular, the metropolitan city of Dar es Salaam, the northern centres of Arusha, Moshi, Tanga, and Morogoro over other centres and regions of Tanzania, have not been weakened.”⁷

In the same planning period, having failed to implement fully a slum-clearance scheme that was carried out in the 1960s, that is, the demolition of houses built of traditional building materials and their replacement with “modern” houses built of sand cement blocks, the government changed its housing policy in 1972 in favour of the preservation and improvement of such settlements. Lusuga Kironde has shown that when the scheme was stopped in 1969, only 3,667 out of the 50,000 houses targeted had been demolished and rebuilt, 70 per cent being in Dar es Salaam.⁸

This change in government housing policy from one of clearing slums and squatter settlements also encouraged self-help and co-operative housing developments. This direction in change might also have been prompted by the government’s conviction of the value of the self-help initiatives demonstrated by property developers in the unplanned settlements and slums, and the economic and social value represented by their properties. In part, it can be traced to the socialist political ideology adopted in 1967 following the Arusha Declaration. It could also be traced to the general concern for the condition of housing for the majority of the urban poor in Africa, which, as observed by Mabogunje, prompted the World Bank and other donor agencies to advocate the sites and services approach, including squatter upgrading, as a more realistic strategy for coping with the urban poor housing problem.⁹

Drawing intellectual inspiration from John Turner’s work in Latin America in the 1960s, the sites and services approach was based on the understanding that if people were provided with basic inputs such as serviced plots and credit finance, they would be able to build affordable houses for themselves. This change in government policy towards a recognition of people’s initiatives should have had implications for land-use planning practice. For instance, unlike the normal plot layout plans drawn up for un-built areas, which assume a unitary interest, planners would be required to take into account the more complex and diverse interests of the holders of land rights and the developers in general, while at the same time providing for collective interests. This challenge called for knowledge and discreet attention to such interests, something which could be facilitated by carrying out planning in collaboration with the stakeholders concerned. We shall see, as the case unfolds, how this policy among others was interpreted in the plan-making process and pursued in the management of land-use change in the Moshi case.

The same year (1972), with the prime intention of enhancing participation in decision-making, the government adopted a policy of decentralizing its administrative machinery from Dar es Salaam, the capital city, to the regions and districts. The irony of this policy was, however, that local authorities, which are intended to be the government of the people, were abolished in favour of a system in which regions and districts were entrusted with tasks such as planning, servicing, and land allocation, which were traditionally carried out by the local authorities. Several scholars and commentators have established that decentralization was in fact rather a process of de-concentration and that the abolition of the local authorities blocked the possibility for popular participation.¹⁰ In an analysis of local government under decentralization, Lipiga observes that:

... The new arrangement (regional and district administration), though purporting to give power to the people, actually alienated the people from the decision-making process. The crucial organs in the process of preparing development plans and managing the affairs of the districts and regions were dominated by technocrats rather than people's representatives. The DD&DP (District Development and Planning Committee), DTM (District Management Team) and the RTM (Regional Management Team) are cases in point. In the District Development Councils and the Regional Development Committees elected representatives were a minority.¹¹

This observation is very much supported by a regretful statement made in 1984 by Julius Nyerere, the first President of Tanzania and architect of the Arusha Declaration and subsequent policies:

There are certain things I would not do if I were to start again. One of them is the abolition of local government and the other is the disbanding of co-operatives ... We had these two useful instruments of participation, and got rid of them.¹²

Under the decentralization arrangement, Moshi Town council was reconstituted into a sub-district under the regional development directorate, which was also responsible for rural development in Kilimanjaro region. The main focus of the decentralization policy was the development of rural areas, where at least 90 per cent of the population

lived. The implication of this focus was that the full thrust of the government's investment resources were directed towards rural development, so that towns received a low priority in the allocation of development resources. As documented by Stren and White¹³ and others, such as Hayuma¹⁴ and Kulaba¹⁵ on the effects of the abolition of urban councils, this was the beginning of the deterioration in urban services and the breakdown of urban development management in Tanzania.

Using the argument of economic provision of services and enhancement of economies of scale in production, between 1973 and 1976 villagers in most parts of the country were uprooted from their traditional villages and resettled in nucleated settlements. This operation – *vijiji*, as it was known – made all those who were moved homeless until they were able to build new houses in their new destinations. Telling evidence of what people suffered during this operation is contained in the statement of a villager from Itogang'olo in Kahama district, Shinyanga region, who just before becoming a victim of another displacement as a result of the implementation of another government policy – a land-use plan which entailed a change of land use from agriculture to housing – told the Presidential Commission of Inquiry into Land Matters that:

I want the Commission to know that we, the inhabitants of Itogang'olo, have suffered a great deal as a result of different government policies and decisions. What we went through during the "operation" (operation *vijiji*) is beyond description. We buried our children, our houses were burnt, we were hounded out and guarded by armed men like criminals. We can't tell it all. We were moved during the rainy season, we were piled up under the open sky in rains. The government did not care. Now we are being moved again, while the government and the party remain unmoved . . . We ask ourselves: What crime have we committed to undergo all this?¹⁶

Another remarkable implication of this operation was the exodus of villagers to urban areas, where they could live without being "harassed" by village leaders and enjoy access to services and a ready market for their agricultural produce.¹⁷ Evidence of this exodus is also apparent in the high growth rate experienced in all towns during the 1970s compared to the periods before and after: that is, during

the 1960s and 1980s.¹⁸ Although Kilimanjaro region was one of the regions least affected by the rural resettlement programme, Moshi Town was no exception to the experience of rapid population increase. During the 1970s, its population grew by almost 7 per cent per annum as compared to the previous annual growth rate of 6 per cent during the 1960s and 6.4 per cent during 1980s.

As the government busied itself with reorganizing the former market economy into a state-controlled economy, the country was fast sliding into a serious economic crisis. The magnitude of that crisis is well summarized by Maliyamkono and Bagachwa, who indicate that gross domestic product declined in real terms from an average of 5.1 per cent per annum between 1970 and 1976 to less than 2 per cent per annum between 1977 and 1986, at a time when population growth was 3.2 per cent per annum, thus making per capita income decline by more than 15 per cent during the same period. Inflation rose from an annual average of less than 5 per cent to 11 per cent and finally to 30 per cent in the periods 1966–1970, 1970–1976 and after 1979, respectively.¹⁹ The causes of this crisis and how they were linked to the poor economic performance presented above are well articulated by the two authors.²⁰ However, it may be instructive to mention the major factors, namely the unfavourable balance of trade, the oil crises of 1973–1974 and 1979–1980, drought in 1973–1974 and the war with Idi Amin of Uganda in 1978–1979. Others include the costly programme of villagization and the decentralization of the government administrative system to the regions and districts.

Preparation of the Moshi Master Plan

As a framework for guiding land-use change decisions and the development envisaged in the selected growth poles, the Ministry of Lands, Housing and Urban Development decided to prepare master plans for each of the towns selected. To achieve this, the government sought Finnish Government assistance in physical planning. As many other external supports are disbursed, the Finnish assistance package came with Finnish architect-planners. Some of the Finnish expatriate planners prepared regional physical plans, such as the Uhuru corridor physical plan, others prepared layout plans for sites and services schemes, which were then financed jointly by the World Bank and the Government of Tanzania, and others were engaged in the preparation

of master plans for the municipalities of Mbeya, Morogoro, Tabora, Tanga, and Moshi.

The Moshi master plan would not, however, be the first land-use plan for Moshi, because on 30 March 1968 the last British Director of Town Planning in the country, Mr Sharp, approved an interim land use plan which was intended to guide the land-use change decisions for the next 20 years (see Figure 2.3). It was termed interim because it was to be superseded by a master plan which would normally be more detailed and comprehensive. That plan had been preceded by a town-planning scheme approved by the same director in 1962 (see Figure 2.2). The differences between the two previous plans were that whereas the town-planning scheme was more detailed, indicating the layout of roads and plots for various uses within the township jurisdiction area, the interim general plan was general, in that it was

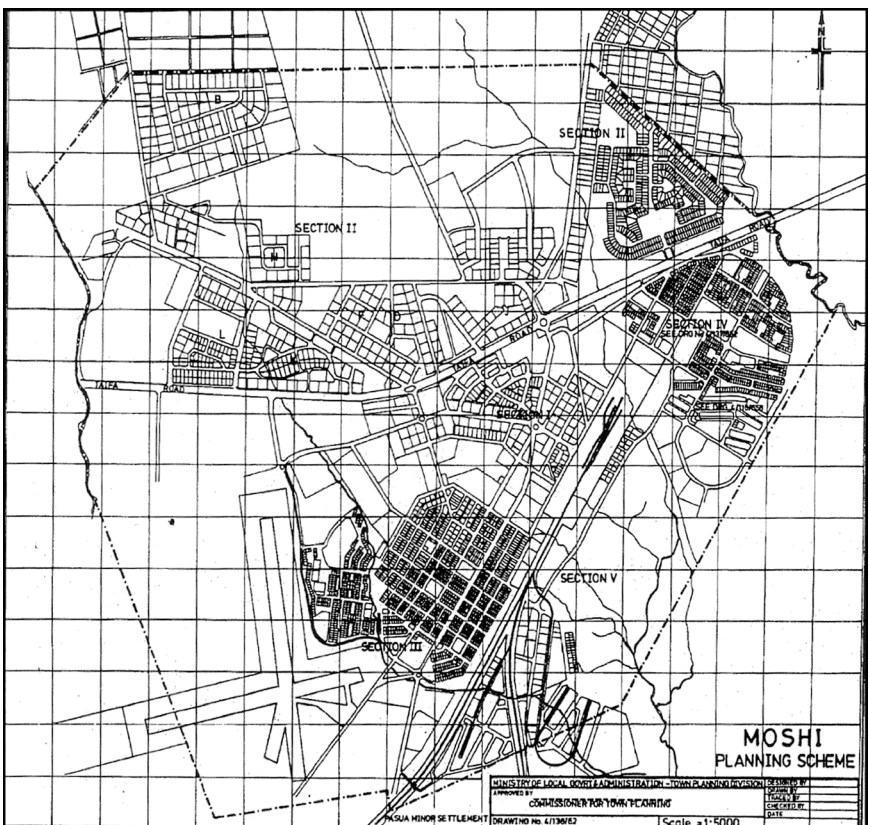


Figure 2.2: The 1962 Moshi town planning scheme

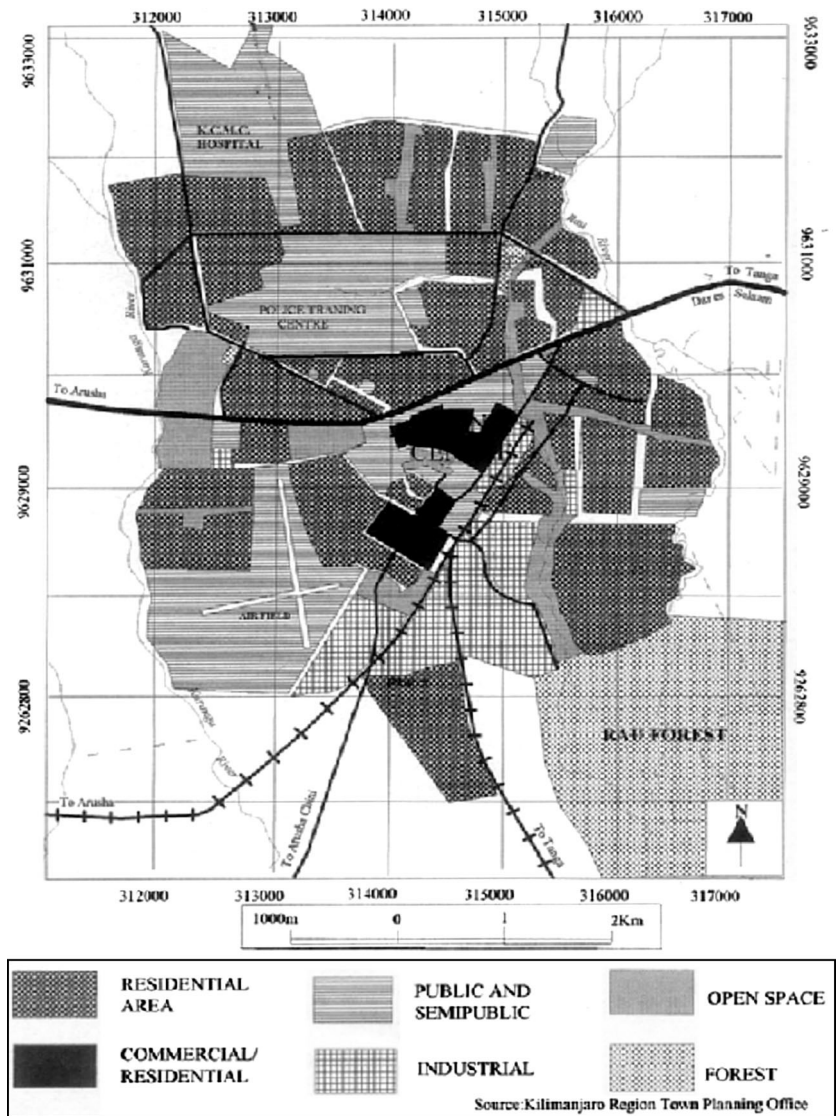


Figure 2.3: The 1968 Interim land use plan

intended to be a guide for detailed layout of roads and plots for various uses within the framework of the proposed land use.

To legitimize its administration of development within the entire proposed planning area to include part of the lands under Moshi rural district council, in 1971 the town council initiated a process of extending

its administrative boundaries. Otherwise, the council's planning powers as the area planning committee and thus the planning preparatory authority²¹ were confined within its area of jurisdiction, which implied that it would have no powers to regulate land-use change in the entire planning area as proposed by the interim general plan. However, according to Section 5 of the Town and Country Planning Ordinance, the council could acquire such powers subject to the consent of Moshi rural district council. Otherwise, the minister responsible for town planning would have to appoint a joint area planning committee to be responsible for planning functions in the area.²²

Despite this legal provision, a proposal to extend the boundary of Moshi Town was reached by a meeting of the urban planning committee on 25 May 1971, without the consent of the Moshi rural district and without involving the residents affected in Longuo, Rau, and Kariwa villages.²³ As claimed by the town director, by then referred to as the town clerk, when the residents to be affected received the news about the boundary extension unofficially, they began to speculate about the possibility of compensation. This claim is evident in a letter written by the town director in January 1972 requesting the Prime Minister's office to speed up approval of the proposed boundary extension:

For your information (,) immediately after the residents of those areas over heard that town boundary was being extended, they started building large permanent houses as well as planting permanent crops hoping for to be compensated ...²⁴

Whether that claim was genuine or a strategy to induce prompt action will become clear later, when we shall see how the Prime Minister's office responded to this request and the subsequent reactions of the Moshi rural district council and the villagers affected by this decision.

In the mean time, on Wednesday 10 January 1973, the Director of Town Planning in the Ministry of Lands, Housing and Urban Development in Dar es Salaam wrote to the zonal town planner to inform him that on Monday 22 January 1973, he would visit Moshi Town.²⁵ The purpose of the visit was to conduct a consultation exercise on the problems which prevailed in the town and to look into the possibility of preparing a master plan for it. This land-use planning tool would eventually become a framework for guiding and regulating land-use change decisions for the next 20 years. As the story unfolds, we shall see that the use of this tool for the intended purpose became

a source of far-reaching dispute and had results that were detrimental to some of the town's inhabitants.

On Monday 22 January 1973, at 10.00 a.m., the meeting began in the Regional Development Director's office. The main item on the agenda as directed by the Director of Town Planning was a discussion of the preparation of the Moshi master plan, focusing on the following:

1. Population growth for Moshi township.
2. Squatter problems.
3. Extension of town boundaries.
4. Implementation of the current Moshi (interim) planning proposals.
5. Present and future requirements for designed plots.
6. Others.²⁶

Apart from the regional development director, who chaired the meeting, others in attendance included the Kilimanjaro regional land development officer; Moshi district development director; town clerk; district land development officer; town engineer; and the zonal town planner, who acted as secretary to the meeting. The director of town planning informed the meeting about his ministry's intention to prepare master plans for the selected urban centres, Moshi Town being one of them. This, he said, was a continuation of the implementation of the Second Five Year Plan for Economic and Social Development. The discussion that followed after the director's briefing proceeded "informally", focusing on the following agenda items:

Extension of the town boundary

Prior to this meeting, the proposed township boundary had been surveyed and a survey plan submitted to the commissioner of surveys and mapping. As this new boundary did not include Kiboriloni, a commercially developing suburb of Moshi, it was suggested that the town boundary be revised to incorporate the settlement which until then belonged to Moshi rural district. The regional development director argued that this suggestion would be:

... in the interests of Moshi (town) Council ... as it would be both a source of revenue (withdrawing it from Moshi rural district) and a means to control the squatter problem....

(Moreover) it would be advisable to include the settlements in the proposed Master Plan area over which the Town Council will have powers after the Master Plan is approved.²⁷

Rapid population growth and demand for building plots

The discussion raised concern about the rapid growth in population, which was claimed to be 7 per cent, compared to 10 per cent for Dar es Salaam city and 6 per cent for Tanzania as a whole. It was, however, noted that demand for building plots was not high, since there were unallocated plots in the Majengo, Karanga, and Pasua areas. The town clerk was concerned about the many applications for the conversion of residential properties to commercial/residential use. This, he noted, would eventually lead into all residential areas becoming commercial. The town clerk suggested that provision be made in the master plan to raise the percentage of commercial land use in residential areas from 10 to 15 or 20 per cent.

With regard to unplanned settlements, the town clerk observed that the phenomenon was rare in Moshi Town, although unauthorized development continued in the urban fringe areas, where land was occupied under the customary tenure system (see Figure 2.4). As it will be seen later, the proportion of housing built in the unplanned areas was only 17 per cent of the total housing stock in 1973, while in other towns of similar size and/or a growth rate greater than that of Moshi, such as Arusha, the proportion was already above 40 per cent.²⁸ He went on to observe that the only areas which had been built unplanned, though sparsely, were Kalimani and Boma Mbuzi, which were located in the southern part of the town. He recommended that these settlements be improved through the provision of services, as this was in accordance with the new housing policy of the Ministry of Land, Housing and Urban Development, as outlined below.

Other issues discussed included the water supply and sewerage situation in the town, which the town clerk claimed were sufficient for the present and future needs of the town. Improvement of the distribution system was the only issue which he thought needed to be addressed in the master plan. Regarding sewerage, he observed that the sewage treatment plant was already overworked, although only a few parts of the town were connected to the sewerage system. Before the meeting ended at 11.45 a.m., the director of town planning outlined

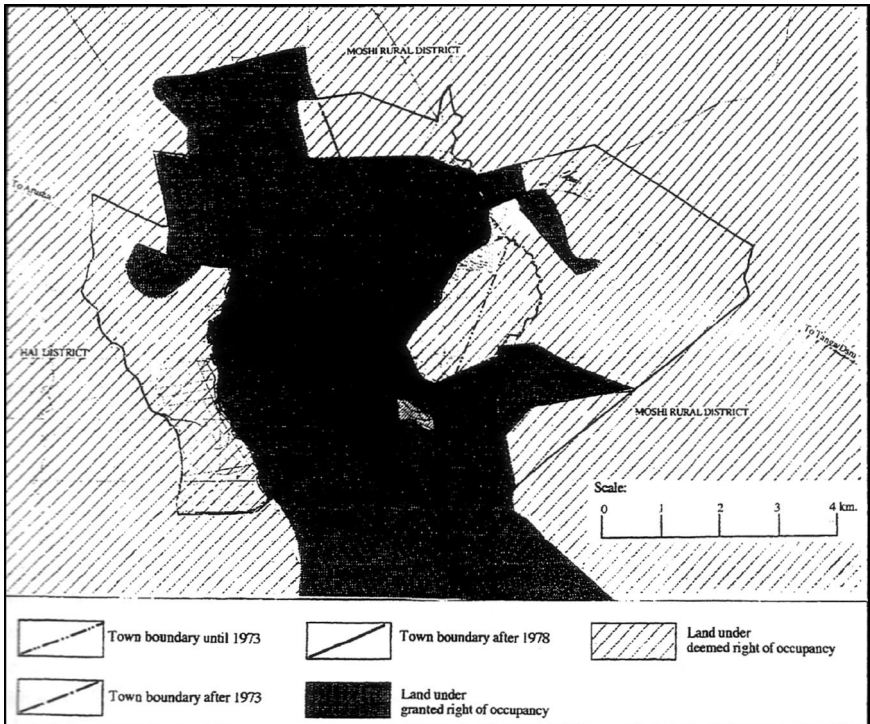


Figure 2.4: Land tenure and municipal administrative boundaries over time

his ministry's new policy on housing and development in urban centres as follows:

- (1) To provide serviced plots, so that the actual building of the houses can be done by the people themselves through self-help schemes or co-operative societies.
- (2) To incorporate as much as possible existing development in squatter areas. This would involve provision of public services in such areas after careful studies are made.
- (3) To encourage mixed densities in residential areas.²⁹

Immediately after this consultation, the town authorities suspended the approval of new applications for development until the proposed master plan was ready, although preparation had not even started. This decision prompted appeals from the developers to the director of urban planning in Dar es Salaam. In response, the director of town

planning wrote to the town clerk to advise him to take the matter to the appropriate committee, otherwise it would negatively affect town development.

... Moshi Town is slightly different from other towns in Tanzania because people from different parts of the district and region come for daily shopping in the town. (As a consequence) there are at the moment many applications for commercial activities. Because the applicants have been advised to wait until the Master Plan is ready, it seems we are retarding people's and even town development. Up to now, it is not known when the Master Plan preparation will commence and be ready, a team of experts from Finland will assist us (the Ministry) in the preparation...³⁰

In May 1973, preparations for carrying out pre-planning surveys for the Moshi master plan began in the Ministry of Lands, Housing, and Urban Development. This – as the plan-making tradition required – involved the preparation of questionnaire forms, relevant maps, and perhaps also attention to the logistical aspects of the surveys which were to be carried out in Moshi.

Meanwhile, in July 1973, under a government order, the Moshi Town area was expanded, to incorporate under the council's jurisdiction all the lands designated for urban development in the 1968 Interim General Plan. Dissatisfied with this decision, in which they were not consulted, the village councils of Longuo, Rau, and Kariwa – part of whose land had been designated for residential use in the 1968 plan, replacing agriculture – protested and were supported by the Moshi rural district council, which had not consented to the decision as required by law. Their district council petitioned against the boundary extension to the Prime Minister. This incident was reported in the *Sunday News* on 26 August 1973:

The Moshi District Development Committee is to request the Prime Minister to change the new Moshi township boundary to exclude certain areas north of the town. These include ... and the area surrounding the Kilimanjaro Christian Medical Centre (Longuo, Rau, and Kariwa).... The Committee noted that previous proposals to include the Kilimanjaro Christian Medical Centre (hospital) in the township as an additional beauty to the town reflected colonial attitudes ... the hospital

could continue to render services without being within the township area.³¹

Two months later, on a tour of Moshi Town, the Prime Minister addressed the residents of the villages among others, and promised them that their petition would be considered. He also assured them that if their land were needed for urban development, their properties would be fully compensated.³² The ambivalent position of the Prime Minister left the residents in a dilemma, but it slowed down intervention by the council in the area. However, not until 5 years later, when another boundary extension was gazetted to include part of Longuo, Kariwa, and Rau villages, did the residents realize the fate of their petition, namely that it had not been considered as promised, and instead the gazetted boundary was retained. I shall return to this in the next chapter.

The boundary extension, which would practically entail a change of land use from agriculture to housing, institutions, etc., and subsequently subject the villagers to an urban way of life, including adhering to building codes and the payment of various taxes, became a thorny issue in the planning and management of land-use change in the areas designated to accommodate urban development expansion. The reasons for this are in part what is evident from this case of boundary extension, from which the residents were excluded in a decision directly affecting their interests and rights. Other reasons will become apparent, as the story of land-use change and planning in Moshi Town unfold in the following chapters.

By 25 July 1973, preparations for the pre-planning studies for the Moshi master plan were in full gear, and it was an opportune moment for the Finnish town-planning expert, who was in charge of the Moshi master plan preparation, to write to the regional development director. The planning expert informed the director that:

As you may know, the preparation of Moshi Master Plan has now been started by Town Planning Division. The first phase is to clear up what is the existing situation in the different sectors of land use, economic life etc. in Moshi Town. Because most of the data is available in Moshi [,] we have to come there to perform some surveys. The work consists mainly of the questionnaire which should include all the residential, commercial, industrial buildings in the area of township with its nearest surroundings ... we

plan to leave for Moshi on August 6 in the morning and we may stay there for four weeks.³³

Attached with this letter of notification was a questionnaire form, which comprised a checklist of information to be sought by the master plan preparation team concerning physical and landscape features, the regional economic context, and the hierarchy of service centres; population characteristics; land use and building; industrial establishments and employment capacity; and a review of previous plans.

In August 1973, as scheduled, the survey team arrived in Moshi from Dar es Salaam. The team comprised two planners, who initiated the surveys, assisted by staff members of the zonal town planning office. Within a month the surveys had been completed, and the team returned to Dar es Salaam for data analysis and preparation of the master plan. By the beginning of March 1974, the analysis and a draft plan were ready for discussion with the officials in the region.

Presentation of the Draft Plan and the Actors Involved

On 6 March 1974, the planning team from the Ministry of Land, Housing and Urban Development, two planners and an engineer presented the draft plan to the officials and town-planning technicians in Moshi. The presentation was attended by the assistant development director, Moshi sub-district council; regional land development director; inspector of works; district land development officer; zonal town planning officer; and town-planning technicians in the zonal office. The presentation was based on maps and other graphics drawn to represent regional aspects such as physical features, rainfall probability, potential land use, game conservation, vegetation, transport networks, service centres, and population. The town aspects included existing land use in the planned township area, public utilities, water supply, condition of buildings, industrial areas, employment by statistical areas, population distribution, population projection, traffic flows, traffic accidents, and four spatial growth alternatives: A, B, C, and C1.

Alternative "A" recommended spatial expansion towards the south, between the rivers Rau and Karanga on the eastern and western sides,

respectively. Alternative “B” recommended linear spatial expansion west-wards, while in alternative “C” spatial growth would be concentric. Town spatial expansion according to alternative C1 would be concentric, but with a bypass intended to reduce traffic in the central part of the town. During the presentation, the merits and demerits of the four alternatives were discussed. Alternative C1 proposed a bypass to the south of the town. Some members expressed concern about the high compensation costs involved in the implementation of alternative C1, but the zonal town planning officer dismissed such concerns, claiming that *the costs would be reasonable because compensation was payable only for developments on the land (buildings, crops, etc.) and not for the land itself, because this belongs to the state.*

As documented in the minutes of the presentation meeting, after a “lengthy discussion it was unanimously agreed that of the four alternatives, alternative C1 ... [is selected as the basis of the master plan]”. Having agreed to the preferred alternative, the zonal town planning officer was asked to arrange a meeting of the sub-district development and planning committee for the following week to present the alternatives to the committee on behalf of the master planning team. After the presentation meeting, the planning team, accompanied by the zonal town planning officer, visited the offices of the regional engineer, works, the regional planning officer, economic, and the regional executive secretary of the ruling party or TANU, as it was then known, to brief them individually about the plan and to seek their comments. It is noted in the minutes taken by the zonal town planning officer that those officials and politician who were not present in the presentation concurred with the decision reached to select alternative C1.³⁴

About a week later, on 12 March 1974, the sub-district development and planning committee convened as arranged. One of the three items on the agenda was to receive and scrutinize the draft Moshi master plan. The members of the committee attending that meeting included the district commissioner; assistant district development director; assistant district financial controller; inspector of works; assistant district personnel officer; district health officer; zonal town planner; district land development officer; eleven councilors of the Moshi sub-district council; and two councilors from Moshi rural district council.

In presenting the four alternatives of the draft plan, the zonal town planning officer, without elaborating, emphasized that, “this plan has been prepared pursuant to the policy of the country, which encourages a socialist way of life, after consideration of the overall regional

development policies.” He went on to say that in preparing the plan, the main consideration had been population increase. He claimed that while Moshi had, as recorded in the 1967 census, only 27,000 inhabitants, the draft plan assumed a population of 45,000 in 1973 and projected this to 250,000 by 1999. It was recorded in the minutes of the meeting that the committee endorsed the decision to develop the master plan on the basis of alternative C1.³⁵ As we shall see later in this chapter, this over-projection had a direct implication for the estimate of land required and thus for land zoned for various uses, particularly residential, the main use of urban land. The consequence of this, encouraged by the use of the master plan as a blueprint for development and the unjustified expansion of urban functions, has been pressure from the planners to convert land used for agriculture to urban uses, particularly for housing.

Assumptions, Objectives, and Policies

The master plan document comprises five main sections. The first section provides a brief review of the national policy on urban development and objectives as articulated in the Second Five Year Plan. The second section deals with population characteristics and projections for 20 years, while the third section reviews the industrial employment situation, on the basis of which future employment opportunities are projected. The fourth section reviews land use in general. Preceding the review is a brief background of previous land-use plans and an outline of the general principles on which the Moshi master plan is based. The section then provides a review and assessment of land requirements for specific land uses: residential – occupancy, tenure, physical and density condition; industrial – service and manufacturing; commercial; institutional “public facilities (and) public utilities”; transport and traffic.

The last section considers implementation of the master plan, with implementation phases and a 5-year implementation plan with infrastructure cost estimates. The statement of implementation contained in the report shows that the plan is conceptualized as a construction drawing and its implementation as the construction process of a building:

Implementation of the Master Plan means here implementation of the economic and social infrastructure of the community... The implementation process includes the following stages: site

clearance and compensation [;] preparation of engineering or architectural designs, contract documents, etc., usually by consultants based on the approved town planning layout [;] construction work.³⁶

The general ideas on which the master plan is based are: spatial extension of the town to the south and south-east; extension of the town centre towards south-east; provision for sufficient space to allow for a gradual expansion of urban activities; adequate flexibility to allow detailed planning according to changing needs; reduced distances between housing areas and work places; and easy access to recreational areas from the housing areas. Others include a regard for what had been developed and committed, such as undeveloped surveyed plots, and the reservation of a convenient way leave for a bypass.

Conceptually, the plan aimed at developing Moshi as a garden city, "i.e. a city in the garden surrounded by beautiful countryside as well as a city including gardens." The main focus of the Moshi master plan was land-use arrangement, aimed at achieving compatibility and derived needs based on the population projection. The starting point was an analysis of the population as recorded in the 1967 census within the town jurisdiction area of 26,864 inhabitants, with immediate hinterland of 330,000 inhabitants, an area within a radius of 30 kilometres from the town centre, which was assumed to be directly dependent on Moshi for shopping services. A projection of this hinterland population was then made by applying annual growth rates of 3.5 and 4.0 per cent, while the selected growth rate for the town was 6.3 per cent until 1989, when it was expected to drop to 5.7 per cent. The projections indicated that 1.38 million and 210,000 inhabitants would live in the hinterland and town, respectively, by 1994.

The assumption concerning the town's economy was that the industrial manufacturing sector would be the main source of income and employment for a majority of the town residents because of the investment envisaged by the government. The employment survey conducted in 1973, on which employment projections were based, covered industrial-sector employers only. The concern of the survey was the size of employment opportunities offered by the few existing industries, rather than the occupations and sources of income of the working members of households. Information about the other sectors, namely services and commerce, formal and informal, and agriculture, were not sought.

Agriculture was assumed to be practised only by those living in the urban fringe. "... The [proportion] of people living on smallholdings

was estimated at 25.9 per cent of the total population ... and about 60 per cent of the planning area is under small holdings. ... Nevertheless, agriculture was disregarded in the formulation of the master plan, as it clearly stated that "the primary sector (agriculture) has been disregarded because of its decreasing importance in Moshi Town."³⁷

The envisaged town population provided the basis for calculating land requirements based on certain assumptions and standards for various formal and conventional uses: residential, commercial, industrial, institutional, and recreational. Because of the disregarding of the non-traditional urban economy sectors to include agriculture and informal and formal micro-enterprises, no land was reserved for these activities. The assumption implicit in this premise of the plan was that manufacturing industry would flourish and become the source of employment and income for the urban households, while agriculture would eventually be displaced.

The main concern of residential development was "to create urgently favourable circumstances for the implementation of spacious family dwellings in order to relieve the situation in the crowded tenant quarters." This concern was prompted by what was seen as a problem in the 1973 survey:

... 66.3 per cent of households and 51.0 per cent of the population are living in one-room dwellings, while 84.2 per cent of households and 74.2 per cent of the population have 1–2 rooms dwelling ...³⁸

A majority of the households were tenants, as confirmed by the 1967 population census, which indicated that 75.8 per cent of the total households living in private rental houses were tenants. Owners constituted only 15.3 per cent; the rest fell under other forms of tenure. This rental tenure condition was interpreted as a reflection of a lack of affordability and of sufficient building plots, phenomena which the planners concluded to have favoured the development of the rented housing market.

Lack of plots or lack of funds for building houses based on the principle of one house per family has developed favourable conditions for a strong practice of building tenant houses.³⁹

The presupposition implicit in this analysis was that if adequate building plots and resources were available, then each urban family would own a house and thus attain the desired standard of one family

per plot. The analysis was, however, too simplistic because individual decisions to invest in urban housing would also be influenced by a number of other social-cultural priorities, such as education for children, support to parents and relatives mostly living in the rural areas, and building in home villages or other towns with better rented housing and property markets. Moreover, the survey carried out for the master plan in 1973 indicated 3.5 households per plot. The plan aimed to reduce households per plot from 3.5 to 2 by 1994.

Following the adoption of the new national urban housing policy, residential development policies took into account this change by proposing the improvement of all unplanned settlements, including Kaloleni, Njoro, and Mji Mpya. In the 1968 Interim General Plan, these settlements had been earmarked for clearance to make room for a planned residential area.

The master plan outlined general objectives for detailed residential land-use planning, which aimed at population density control, ensuring aesthetic quality, convenience, safety and the possibility for the inhabitants to communicate, and have an influence on the common good. The idea was to have layouts drawn according to residential prototype units based on 10 cells and co-operative housing societies. Each prototype would have a population sufficient to support a primary school. On the basis of these ideas, it was estimated that by 1994, when Moshi Town would have 210,000 people, 180,000 would live in the exclusively residential area, 20,000 in the semi-public areas (staff houses, student dormitories, etc.), and 10,000 on smallholdings or in fringe urban areas. Out of those earmarked to live in the exclusively residential area, 170,000 people would live in detached houses at a density of 200 people per hectare and 10,000 in terraced and semi-detached houses at a density of 400 people per hectare.

Approval of the Plan and Early Doubts on Its Efficacy

On 22 August 1975, two years after preparations for the master plan had commenced, the director of town planning approved the 1974 master plan (see Figure 2.5), and stated the intention and purpose of this planning tool to be:

A policy document which sets out the framework and strategy for guiding the future development of the town over a twenty-year

consider the objections in deciding whether to approve the plan.⁴² On the basis of the above chain of events, it is clear that the plan was not deposited to allow the general public's views to be heard. Whether or not this exclusion of public opinion from the planning process matters will be revealed as the account of the implementation process unfolds in subsequent chapters.

The review of the plan after every 5 years to accommodate changes in social, economic, and political conditions as recommended and stated in the director's preface was also accorded with the planning legislation. However, as we shall see in the case study, the review was never undertaken at any moment during the 20-year planning period, despite the social, economic, and policy changes which occurred and the direct implications for urban development of the Human Resources Deployment Act of 1983, trade liberalization in 1984, official recognition of informal-sector activities and urban farming. Use of this outdated plan for guiding and regulating land-use change under conditions different from those conceived when the plan was prepared created conflict between the planning authorities and the developers, such as informal-sector operators, whose interests were not taken into account.

On 20 September 1976, slightly more than a year after the approval of the plan by the director of town planning, an expert was sent by the Ministry of Lands, Housing and Urban Development to give a "professional briefing of the Master Plan ..." to some regional officials in Moshi. The officials included were the key actors in the land-use planning system: regional land development officer; zonal town planning officer; deputy director, Moshi Town; regional works engineer; district planning (economic) officer; regional water engineer; and town engineer. The purpose of this presentation was to ensure that these actors understood the contents of the plan and committed themselves to using the document as a framework for subsequent land-use decisions.

The regional land development officer, a planner by profession and previously the zonal town planning officer, dissented from the proposed eastward expansion of the town to encroach on lands under Msaranga and Kiboriloni villages. He considered that the villages' land should have been left untouched, while a satellite town should be established 8 kilometres away from Moshi Town. He thought that this solution would make the government avoid compensation costs and hopefully other social and economic costs to the villagers. The regional land development officer's dissenting views and an alternative option to accommodate the future growth of Moshi Town were

explicitly expressed in a response to the regional commissioner on 22 November 1976, who had instructed him to establish land requirements for the Co-operative College, Kilimanjaro Christian Medical Centre Hospital, and the expansion of other urban functions in general:

... After investigating all possible directions of growth, if the town's expansion is to take place without heavy compensation, it has to be towards the east, following the Himo road ... according to this investigation, there is a need to revise the Moshi Master Plan before implementation commences, particularly regarding the proposed expansion towards the east. Some of these areas have permanent villages: Kiboriloni; Korini South; and Msandaka (Msaranga/Mandaka), with permanent crops and houses. These areas should be left as they are, as villages, while town development should take place eight kilometres east (of this area) following the Himo road, in an area which will not demand much compensation.⁴³

For the same reason of avoiding compensation costs for properties and the displacement of agriculture – the economic base of the occupants of the urban fringe areas – the regional land development officer argued for his idea of a satellite township as follows:

Because of the existing development of agriculture and permanent houses on the fringe of Moshi Town, and in order to avoid high costs of compensation as new areas for residential use, industries and services are demanded, a "site and services scheme" could be prepared for such areas to provide the basic services. In order to get vacant land which will not involve high compensation costs for purposes of town expansion, it is proposed to develop a piece of land eight kilometres from Moshi town ... as a "satellite township". This ... area (which is) not less than 1,000 hectares ... can accommodate about 50,000 inhabitants plus the basic services to be required. ... The main problem in acquiring this land (for urban development) is that it has high fertility and is used for seasonal crop farming by people from Old Moshi. ... In order to use it (for urban development), it will be necessary to secure for those using the land alternative land for farming and settlement.⁴⁴

Finally, the regional land development officer seeing the gap between the land-use plan and development realities, cautioned that:

... developers, particularly in the urban fringe areas will continue to build contrary to the plan if implementation of the Moshi Master Plan is not promptly carried out or decision reached to revise it pursuant to the prevailing conditions, so that it serves as a (realistic) framework for land development in Moshi town.⁴⁵

Unfortunately, the vision of the regional land development officer, which sounded quite realistic, came too late to influence the plan, which had already been approved the previous year. Under the provisions of the Town and Country Planning Ordinance, after the approval of a master plan or a general planning scheme as referred to in law, a review would be held after 5 years. The deficiency which concerned the regional land development officer was the gap between idea and reality, which was bound to widen with time, given the changing social, economic, and political context. The regional land development officer's response demonstrated sensitivity to and regard for the people's investments in land and sources of livelihood. This kind of consciousness escaped during the formulation of the Moshi master plan, which is why urban expansion was indiscriminately proposed on land used for agriculture, as if such use did not matter to those whose livelihood depended on the land. A question which might be posed at this juncture is, how did sensitivity to the contextual reality demonstrated by the regional land development officer escape the thinking of those who had drawn up the plan?

Summary

What this chapter has shown is the routine "commando" style of master planning that is still in practice in Tanzania. Based on a month's survey, we have seen how a non-resident planner and an engineer based in Dar es Salaam have claimed sufficient knowledge of the people and their social, economic, and environment to prescribe a framework within which land use and development would be regulated for the next 20 years. Despite the provisions of Sections 29 to 34 of the Town and Country Planning Ordinance, which provide for involvement of

stakeholders in the plan approval process, this chapter has shown that the residents were excluded. Involvement of the councilors in the presentation of the draft plan seems to have replaced the direct participatory opportunity provided for in the law.

Among the key assumptions underlying the Master Plan is that industrial development, supplemented by services and commercial sectors would be the main source of employment and income for the urban residents. This assumption was rooted in the urban development strategy under which Moshi was selected as one of the nine growth poles earmarked for receiving government priority in industrial investments. Despite that agriculture occupied 60 per cent of the land within the planning area, it was assumed would not continue as one of the urban economic activities. However, the Master Plan was silent on the future employment and income opportunities for those dependent on the agricultural activities.

Subsequent to the envisaged industrial investments, future population of Moshi was over-projected and extensive areas were designated for industrial, institutional, and residential use. As this could not be catered for within the existing planning area, the plan proposed three-fold extension of the planning area to encroach surrounding agricultural land and villages. Since the land concerned was held under customary land tenure system by small holder farmers, extension of the planning area entailed not only displacement of agricultural interests, but also customary land tenure rights. The implicit assumption here was that public sector funds would be available to compensate those to be displaced. Considering that officially land was regarded to have zero exchange value, such displacement would represent depriving the displacees of that value. Moreover, being within the planning area, landowners and developers would be required to adhere to planning regulations and building code. This represented transformation from rural to urban way of living, behind which many potential conflicts were inherent. Rather than bringing these conflicts in the foreground, they were shrouded in the Moshi Master Plan to present an “apparent technically robust consensus”.⁴⁶

Implicitly, and following the socialist welfarist policy of the state at that time, the Master Plan assumed the government as the main investor in infrastructure, as well as industries and institutions. Based on these assumptions, ideas and the plan formulation process which was dominated by experts and officials, we begin to see the land-use regulatory model described by Healey as “archetypal command and

control". This model, argues Healey, was practised in England in the postwar period, whereby "the state is seen as orchestrator and developer using plans as blueprints". Moreover, she informs us that this model "assumed unitary public interest. Plan-making could proceed dominated by experts and officials, realizing political goals which were assumed to be widely understood and shared ... The planner as an expert was assumed to be the guardian of the idea of the good city, articulating for society what its needs and values were."⁴⁷ John Friedmann refers to this style of planning as "Euclidian" or engineering, owing to its original inspiration from the engineering sciences, its grounding on instrumental rationality, "blueprint" planning and end-state prescriptions.⁴⁸

However, understanding a plan as an argument which once approved and adopted by the politicians becomes a public policy⁴⁹ framework for future decisions, the challenge is, as correctly argued by Healey, to explore how the plans are being used as framework for land use and environmental change, paying attention not only to winners and losers, but also who is included and excluded, and whose terms dominate in the process of using the plans to resolve conflicting interests in an area.⁵⁰ This will be the concern in the subsequent chapters which explore what happened when the Moshi Master Plan, was used as a framework for land-use decisions? In this exploration, the following questions are posed: How did those excluded from the planning process articulate their interests and values in the planning system, using what strategies and under what relations of power? How did the planners and other operators of the planning system respond to such strategies? What were the outcomes and who eventually were the winners and losers?

Adoption of the Master Plan

*Law is a weapon in the struggle over resources, often a very powerful weapon, so that those who control the making and implementation of the law have or may have a head start on the control of society's resources . . . [this raises] issues about power and resources: who controls the development process? To what ends is the process being used? Who gains and who loses from any particular decision to enact and enforce or not enforce any law?*¹

Patrick McAuslan

Since the master plan involved the extension of the planning area as shown on Figure 2.4, we now turn to explore how the council acquired legal powers to regulate land-use change in the extended planning area. In the process, we shall see how some stakeholders, whose interests would be affected by such decisions but who were excluded from the planning process, discovered what they were up against once they had been incorporated into the planning area.

Despite the approval of the master plan in August 1975, it was not available for use in Moshi until 1976, when its printing had been completed in Finland. This was 3 years after surveys for the plan had been carried out in 1973. Even then, it could not legally be adopted without affecting the administrative arrangements discussed in the previous chapter, because the proposed 20-year land-use plan covered land beyond the administrative jurisdiction of the Moshi urban council. Like the 1968 Interim General Plan, the planning area of the master plan included some of the land under the Moshi rural district council.

As pointed out earlier, the council's planning powers as the area planning committee and therefore the planning preparatory authority,² were confined to its area of jurisdiction, which implied that it would not have powers to regulate land-use change in the entire planning area, as proposed in the master plan. According to Section 5 of the Town and Country Planning Ordinance, the council could acquire such powers subject to the consent of Moshi rural district authority.

Otherwise the minister responsible for town planning would have to appoint a joint area committee to be responsible for regulating land-use change in the area outside the planning area of Moshi Town. Which option was chosen by the council? How was this decision reached, and what were the implications? This chapter provides answers to these questions.

Expansion of the Town Administrative Boundary

On 30 June 1978, the new boundary of Moshi Town was gazetted under Government Notice No. 97 of 1978. The gazetted boundary was, however, slightly different from a proposal made by the authorities in the region, because it excluded Shirimatunda area in the south-west of the town, which the master plan designated for industrial use. On 28 July 1978, the town director alerted the authority responsible for settlements boundary, that is, the Prime Minister's office, about this discrepancy.³ In a letter to the minister of state responsible for local government in the Prime Minister's office about the boundary issue, the town director argued that "the area which has been omitted ... is designated [in the master plan] for industries.... which is the future economic base of Moshi residents." About a year later, on 18 July 1979, the town director was asked by the principal secretary in the Prime Minister's office to specify urgently the required amendments.⁴ On 9 November 1979, under Government Notice No. 117, the 1978 boundary was revised as suggested by the Moshi Town Council:

... This Order may be cited as the Urban Areas (Declaration of Boundaries Amendment) Order, 1979... The Schedule to the Urban Areas (Declaration of Boundaries) Order, 1978 is hereby amended by: (a) Deleting the boundary of Moshi Town prescribed in that Schedule and substituting therefore the following: ...⁵

This was the second time within 5 years that the boundary had been extended to meet the requirements of an extended planning area into the peri-urban villages. As we saw earlier, the last boundary extension was in July 1973, when the town area was increased from 15.6 to 26.5 square kilometres. As shown on Figure 2.4 in the previous chapter, the 1978 gazetted boundary more or less followed the planning area proposed by the master plan, by which even the council

assumed administrative as well as planning powers over the area. The new boundary involved the extension of the town boundary from 26.5 square kilometres between rivers Karanga and Rau to 70.0 square kilometres across those rivers. The extension included parts of Msaranga, Kikarara, Mdawi, Shirimatunda, and Sambarai villages (see Figure 3.1). This event and what it would practically entail, namely the acquisition of land in these villages for urban development, change of land use from agriculture to housing, institutions, etc. and subsequently subjecting the villagers to an urban way of life, became a thorny issue in the planning and management of land-use change in the villages affected. The reasons for this will become clear as the story of land-use change and planning in Moshi Town unfolds in the next chapters.

The extension of the town boundary coincided with the re-establishment of Moshi Town council in July 1978. Before its re-establishment,

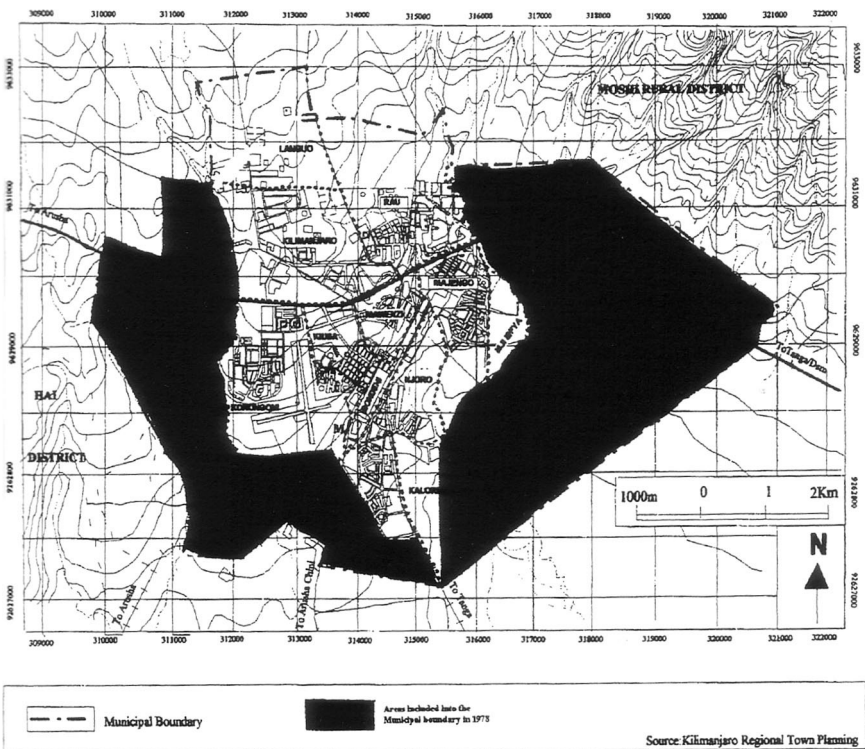


Figure 3.1: Areas included into the Moshi Town after the 1978 boundary extension

the Prime Minister's office had required the regional authorities to propose boundaries to be gazetted as the administrative areas for the new urban councils to be re-established. As technical support to the regional and sub-district authorities in this exercise, a team of planners were sent to the regions from the Ministry of Lands, Housing and Urban Development. One of the planners in this team was the former Zonal Town Planning Officer for Kilimanjaro, who was also the host in the preparation of the Moshi master plan.

In an interview with this planning officer, he recalled the trips they had made to different regions to assist the authorities there in the exercise. However, what is of relevance for the present study is that in the case of Moshi Town, the boundary had been defined by the master plan:

In Moshi Town the task was simple because the Master Plan had already proposed a new planning area which was beyond the town boundaries at that time. Moreover, I had been in Moshi as a zonal town planning officer and before being posted to Moshi, I served (while working with the ministry before the decentralisation) as a schedule officer for Moshi Town.⁶

On 12 May 1978, in an emergency meeting of the regional development committee which was held in the council hall, a proposal to extend the Moshi Town boundary was approved.⁷ Two days later, a special meeting was held at Karimjee hall in Dar es Salaam to discuss the Moshi Town extension, as well as proposals for other towns. In July 1978, Moshi Town council was formally re-established. A town planner was immediately recruited, who was to be responsible, among other duties, for putting in place a planning department separate from the engineering department, in which it had been before. An urban planning committee was also established, separate from the engineering works and planning committee, where it had been until the councils were abolished in July 1973.

At the regional level, institutional changes entailed the creation of a regional town planning office to replace the system of zonal town planning offices. A regional town planning officer would be responsible for all urban and rural planning activities in the region, including Moshi Town. This change had brought with it a new planner as the regional town planning officer, while the planning officer in-charge of town planning in the zone had been moved to the Capital Development

Authority, established in 1974 to implement the Dodoma Capital City Master Plan and oversee the development of this new capital city of Tanzania.

Protests by Excluded Stakeholders: Our Village Does Not Exist

In September, as part of the trade-licensing procedure required, the council began to receive applications for licences for local as well as imported liquors and spirits. Following the boundary extension, which incorporated certain villages, the council was expecting applications from a larger area and obviously more revenue from the licence fees. Applications were, however, received from dealers in all parts of the town except the areas included in the new town boundary. This suggested a problem, as the town director realized:

Moshi town council began to experience problems in managing its growth in the areas included within the township (boundary) from September 1979, when scrutinizing applications for trading licences for imported and local spirit and liquors. Some of the villages which were included in the (new) town boundaries objected to the Town Directors instruction requiring them to submit their applications to the council. These villages declared openly that they did not recognize the Town Director as the leader of their village governments.⁸

To the fore in this protest were Longuo, Rau, and Kariwa villages. They had protested against being incorporated into the town since the last boundary extension in 1973 and petitioned against this decision to the President of the ruling party, as well as the Prime Minister. The villagers had vowed not to co-operate with the council until they received a response to their appeal. As we shall later see, their protest was motivated by fears that they would lose land, pay taxes, and have restrictions imposed on them as to how they could use their land, as well as by the fact that they were not listened to in the process of reaching a decision to extend the boundary. In an attempt to counter this resistance from the villagers, the regional party secretary instructed the officials and politicians of Moshi rural district in the affected areas to relinquish their powers in the villages concerned and

to allow the town council to take charge of the villages. He directed the district politicians and executives to enlighten their people on the need for a boundary extension.

The chairman of the party for Moshi rural district, who was fully aware of and in agreement with the decision reached by the district executive committee to object to the extension of the boundary, was reluctant to implement the regional party secretary's instruction on the grounds that he would not dare face the residents affected on that issue. Although the regional party secretary emphasized that his instruction was a directive which should be implemented, nothing happened in respect of the handing over of powers between the authorities of the rural and urban districts. This made the urban council unable to carry out its functions in the areas concerned. Under pressure because of the necessary preparations for local government elections scheduled for January 1980, the town director reminded the district party secretary about the issue of the hand-over of powers in those areas that had been brought under the jurisdiction of the town. He emphasized that the election of councilors should also take place in the areas that were protesting against the boundary extension. This issue was discussed in a meeting of the regional executive committee, which directed the district leadership to ensure that elections were held in the villages in question as well.

From that point on, the district party secretary instructed party secretaries in the villages incorporated within the new town boundary to hand over their responsibilities to the town authority to facilitate preparations for the local elections. Moreover, the party secretaries at regional and district levels, other politicians, and officials from the land office in the region decided to visit the villages affected to inform their residents about the boundary extension. The visits were scheduled for between 26 September and 17 October 1979, the starting point being Longuo, Rau, and Kariwa villages, where, as already indicated, the protest against the decision began earlier than elsewhere. In all the villages visited, the team held briefing meetings with the village party chairman, village committees, and 10 cell leaders. The issues addressed in the briefings included:

- (a) Reasons which made the central government reestablish urban councils.
- (b) The security of the wananchi who had been included within the township boundary, especially with respect to their economic activities, such as farming and rearing livestock.

- (c) The procedure to be followed when the government required land from the present holder for public projects: payment of compensation.
- (d) An assurance to the wananchi that the government would not disturb them (landowners) unless land was required for public purposes.⁹

Having heard this from the leaders, the village leaders raised a number of concerns, all hinging on fears for the security of their land rights and uncertainties about their future lives in an urban environment where urban regulations would restrain their freedom to use the land for agriculture, as well as to divide the land and transfer land rights as their socio-cultural and economic conditions dictated:

... wananchi are not opposed to development of the town, but they need to be informed how they will survive in a town environment, where certain laws and regulations in place prohibit activities such as free grazing of livestock, growing of crops such as bananas, maize, etc ... they (villagers) know quite well that once land has been acquired for urban development purposes, the landowner has no freedom to use it as he or she desires. It is a tradition that here in Moshi, land is depended upon by the owner and children (for building), for social and economic sustenance ...

People living in Msaranga shifted to this area after suffering land shortage in their former villages on the slopes of the Kilimanjaro mountain. Therefore, if their land is incorporated into the town and needed by the government for public projects, they will have no more hope. (Moreover) ... given the urban regulations in place, how can they be assured of their security of tenure, so that their land on which they depend would not be allocated to others ... In view of the high cost of living, (in case of displacement) payable compensation by the government will not be sufficient to enable the recipient to re-establish him/herself.

Unlike the indirect objection registered by the rest of the villages, the village leaders of another of the villages affected, Kikarara, declared that they were opposed to the idea of being a part of Moshi Town unless the government decided to force them. Nevertheless, the leaders categorically stated that if land was required for industrial development, they would be willing to provide the land required.

Although the villagers remained hopeful that the government might reverse the decision to extend the boundaries, the government had already stated its position in 1979:

... I have been directed by the Prime Minister to inform you that the government decision on the boundary of Moshi Town as published in the Government Notice no. 97 of 30 June 1978 should hold ... This decision follows a decision reached by meetings of the District Development Committee and Regional Development Committee held on 12 May 1978 ... these decisions should be accepted and respected, even by those complaining, despite their disagreement with the opinion of the majority.¹⁰

All the time Longuo villagers were protesting against the extension of the boundary, they were unaware of the master plan and particularly of the proposal to use their land for institutional purposes. If that decision were carried through, it would imply the residents and their properties being displaced in favour of the designated institutional use. This lack of awareness of what their area had been designated for by the master plan was confirmed in an interview with one of the villagers, a member of the delegation sent by the Longuo villagers to the Prime Minister's office to pursue their appeal. The delegate said:

While in the Prime Minister's office we noticed on a table a book entitled Moshi Master Plan. After reporting our business, we asked the assistant in that office, whom I knew personally, to lend us the book so that we could read it in the hotel. We promised to return it before we left (for Moshi) the next day. He agreed and gave us the book. While in the hotel, we went through it and studied the map. I could read the map: thank God I went to school. The map showed that our village does not exist, (emphasis added) because where it stands was coloured red. In the key for the map this colour indicated institutional use. We decided that we should show this to our fellow villagers. We did not therefore return the book as promised; instead we brought it to Moshi ... The assistant sent a message to us to return the book ... We sent it to him.¹¹

This knowledge acted as a catalyst. In 1979, Longuo, Rau, and Kiriwa village councils resolved to file a legal suit against the council for trespass in the District Magistrate's Court in Moshi. In an interview with

the same delegate to the team which went to the Prime Minister's office, the delegate claimed that the district court did not allow them to file their suit. The reason given by the person they met there was, "you are protesting against a government [decision]. We do not entertain such legal suits; maybe you should go to the High Court." The informant then said that they decided to go to the High Court at Arusha, 80 kilometres away from Moshi Town. This, of course, cost them much more in terms of time and money than if they had succeeded in filing the suit in the court in Moshi. Notwithstanding the costs involved, they were out to defend their rights and interests before the law.

... Before going to Arusha, we were informed that there was one "no nonsense" advocate (name mentioned) who could help us. We told him about our case: he understood it and told us his charges, which were Tshs. 150,000 (equivalent to about US \$20,000 at that time). We bargained and agreed on Tshs. 70,000 (equivalent to about US \$9,000). We then filed a suit against the Moshi Town Council (for trespass) in the High Court at Arusha.¹²

While the case was in the High Court – and despite the disagreement between the council and the villagers – in January 1980 local government elections were held in all wards. The villagers in Longuo "B" boycotted the elections. However, because Longuo ward consisted of planned and unplanned areas – Longuo "B" – the councilor for the ward was elected by those who voted. In Msaranga ward the villagers participated in the elections because, as one of the villagers said, they needed a representative to become an "insider" on the council to argue their case and spy for them. By 1979, although a suit was going on in the High Court at Arusha – Longuo village council and others versus Moshi Town Council – the dust of protests against the boundary extension seem to have settled in the other areas, except in Longuo, Rau, and Kariwa villages. However, what so far could be interpreted as a stable power relationship between the council and the other village councils affected remained so, so long as the next move by the council did not in any way negatively affect the interests of the people concerned. I shall return to this later in Chapter 5 to see what happened. I shall now follow the first attempt by the council to implement a proposal to move Moshi airport in favour of housing development on the site, as envisaged in the master plan.

The First Major Drawback

As scheduled in the second phase of the master plan, in late 1979, the town director wrote to the Principal Secretary, Ministry of Works, regarding the discontinuation of the Moshi airport, so that the area could be used for housing as proposed in the master plan (see Figure 3.2).¹³ This information came to the authority concerned as a surprise, since they could not understand what the director was talking about. The Ministry of Works was surprised because they claimed to have no idea about the proposal in the master plan to move the airport. Subsequently, the principal secretary wrote back to object to this land-use change decision being implemented, because his ministry had not been involved in the master plan's preparation under which the decision had been reached, and also because the airport represented an asset to the town, which would be expensive to rebuild on another site.

... Many regions in Tanzania are not as lucky as you are (to have the airport). This Ministry was not involved in the preparation of the Master Plan which proposed displacement of this airport. The Moshi airport is a big asset that you have ...¹⁴

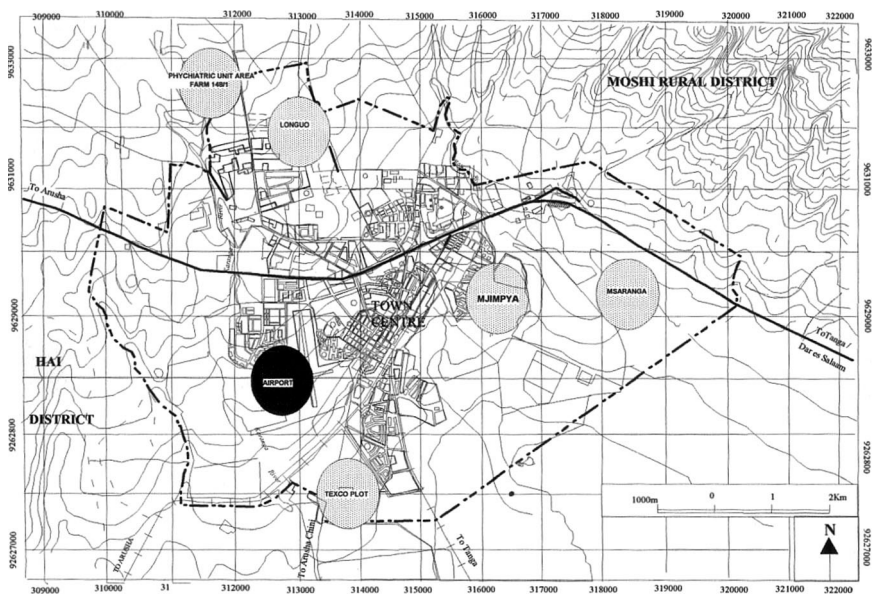


Figure 3.2: Airport area where the first layout plan could not be implemented

Although efforts were made by the Ministry of Lands, housing and urban development to support moving the airport, the Ministry of Works maintained its stance.

... I do not intend to dwell on the merits and demerits of turning the airport into a residential area, as one's judgement on this issue will depend upon his basic interests.¹⁵

This observation provoked the director of urban planning, who, in a response to the principal secretary's letter, dwelt extensively on the rationale behind moving the airport and how the decision was reached, which also involved the Ministry of Works.

... For purposes of comprehensive planning, one must definitely consider the merits and demerits of changing a use of land from one type to another, and in fact for arranging priorities in the planning process. Your contention that consideration of the merits and demerits in choosing among alternatives is a question of individual values is repugnant to a consensus in the planning machinery, where coordination among the different agencies helps to bring about desirable solutions commensurate with situational ideals. . . .

As a matter of fact, the preparation of the Master Plan for Moshi fully considered the commitments of every agency concerned in the running of the urban environment, and much care was taken to strike a balance between economic efficiency and environmental amenity so that the ultimate gains would benefit the entire community rather than a section of the people or individual or some authority. . . . When the Master Plan for Moshi was prepared (with your office fully incorporated) the arguments for changing the use of the airport to residential purposes outweighed those against. It would be completely wrong to imagine that the planners could have overlooked such benefits while preparing a document for guidance for twenty years.¹⁶

Following what we saw in the previous chapter, the planners who prepared the master plan briefed the regional engineer – works. According to documentary evidence, the briefing took place in his office because he did not attend the presentation meeting. However,

it has not been possible to establish the engineer's reaction to the proposal to move the airport. On 8 April 1980, the issue was brought before the urban planning committee, which resolved that the airport should be retained for reasons of "security, air services for the Kilimanjaro Christian Medical Centre Hospital, and the expense involved in building another airport in the town or region." A similar decision had also been reached by the regional development committee. Because this decision had to be agreed by the director of urban planning before being communicated to the Ministry of Works, the principal secretary responded to the director's letter, emphasizing that Ministry of Works had not been consulted in the preparation of the master plan.

... I want to make two points clear. The first point is that to our knowledge we were not consulted when the Master Plan was drawn up. Secondly, there is no internationally known environmental problem at present and in the future that will result in the use of Moshi airport.¹⁷

The decision reached by the regional development committee and the urban planning committee marked the first major failure to implement the master plan land-use proposal. Since the airport site was the last big area whose rights were directly under the government, this failure marked the end of an easy time for the planners in particular and the council in general with regard to land-use planning in Moshi, which was preoccupied with the subdivision of land into plots for allocation to developers. However, the planners would gradually encroach on the buffer zone around the airport for residential plots. Whenever this was done by the council planners, approval would be secured from the director of urban development after obtaining the clearance of the Ministry of Works.

Summary

We have so far begun to see the consequences of the exclusionary planning process, by which customary land-rights holders who were excluded from the planning process protested against a decision which would affect their interests in land. If in the beginning the

Longuo residents were not exactly sure how they would be affected by the expanded planning area, they had found this out in pursuing their petition: they were facing displacement. This would greatly affect their diverse interests in land, which were primarily related to the use and exchange value of land: in terms of use value, their interests in land included farming, on which they depended on for survival. It would also involve displacement of their houses, which provided them with shelter as well as rental income.

In addition, it would make them unable to meet their cultural obligation to pass land to their male children in accordance with the Chagga culture, as well as losing a burial ground for family members. Residents' protests were also underpinned by the fact that once incorporated into the town, they would inevitably be required to develop land according to urban regulations and pay the various charges applicable in towns. Their protests were also prompted by the fact that they were not involved in reaching a decision which would affect their whole lives. This democratic space is provided for in Section 24 of the Constitution of the United Republic of Tanzania, and subsequently in Section 10 of the Local Government (Urban Authorities) Act No. 8 of 1982. I shall return to this in subsequent chapters.

The Moshi rural district council, to which all the residents affected earlier belonged administratively, supported the protests and petitioned against the decision because it did not consent to the extension of the planning area, as provided for in the planning law, and it also realised that it would lose part of its tax base and electorates to Moshi Town Council because of the size of its political constituency, land, and properties, which provided a potential source of revenue in the form of land and property rates. Finally, additional population would qualify Moshi Town Council for a higher administrative status than it obtained in July 1988, when the town received municipality status. Despite the objections raised by Moshi rural district council against the boundary extension, these relative advantages may explain why this option was preferred by Moshi Town Council to a joint area planning committee.

Finally, we have seen that it was not only the residents excluded from the planning process who protested against its non-participatory nature. The Ministry of Works also objected and successfully blocked implementation of the proposal to remove Moshi airport to make room for residential development. This happened despite the unsubstantiated

claim of the director of urban planning that the stakeholder affected was involved and despite his seemingly sound environmental arguments favouring the proposed relocation of the airport. Having discussed in this chapter this failure to get the airport moved, with its implications of accommodating the anticipated residential development in that area, the next chapter traces the planners' next attempts.

Chapter 4

Msaranga Plan: “For the Sake of a Good Plan”

Land belongs to a very vast family of which many are dead, few are living and countless numbers are still unborn¹

Farvaque C. and Mac Auslan P.

Layout Plans² create new maps of appropriation of land value, producing extra wealth to the “get keepers” in land administration and influential, and poverty to the less influential land owners.

Anonymous

As seen in the previous chapter, Msaranga residents, like all others affected by the boundary extension, were unhappy about the decision, because of uncertainty about their lives in the changed social and economic setting of an urban environment. Party and government officials tried to clear their worries by promising residents that they would be incorporated into the town within their social and economic context: “a village in the town to feed the town”. The villagers trust in this promise was, however, small, given their knowledge of the laws and regulations that were operative in the urban areas. Whether or not they were justified in that distrust will be revealed as the story unfolds.

The case presented in the following two chapters concerns an attempt by the council to regulate land-use change in Msaranga/Kiboriloni, ostensibly to prevent unplanned development. The council’s attempt entailed two major changes in the area: first, a change in land-use from agriculture to housing, institutions, and other uses; and secondly, parceling the land into residential plots, something which implied a readjustment of the boundaries of individual landholdings in accordance with the urban planning standards prescribed in the master plan. In the previous two chapters, we saw how the master plan was prepared, who was involved, and what its contents were, as well as observing the discontents and fears expressed by residents when the boundaries were extended. This chapter explores the process by

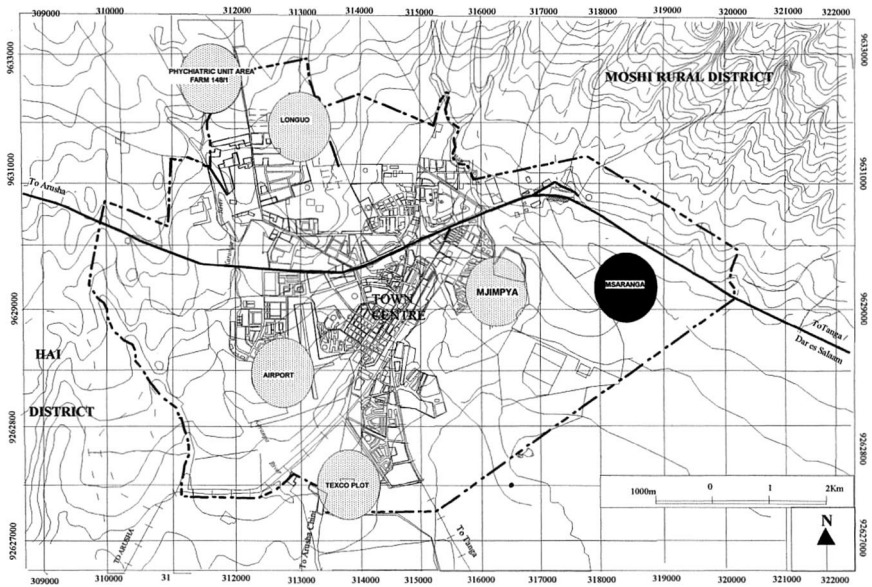


Figure 4.1: Msaranga sub-case study area

which these macro-planning decisions were brought to bear and how they impinged on the interests and rights of actual people. It also examines how landowners struggled desperately with the political-administrative system to register their interests and seek help.

In an attempt to safeguard their interests, the villagers protested against the planning intervention. This protest manifested itself as a conflict which landed the council in the High Court for trespass. The conflict became an obstacle to the council's attempts to regulate land-use change not only in a particular village, but in all the urban fringe areas that had been brought under the jurisdiction of the council in 1973 and 1978. The case remained in the court for 10 years. In the meantime, the villagers became uncertain of their fate. Insecurity of land rights and investments in land pervaded the minds of landowners in the areas affected. Subsequently, some of them disposed of part of their land, fearing that they would otherwise lose it to the council if the High Court did not decide in their favour.

Land being the backbone of their agricultural economy, the decision to dispose of land left some villagers with no or inadequate means of livelihood, as well as with no land to pass to their children, as cultural tradition dictated. These consequences left the landowners

concerned with no hope of survival because they could not practice farming as they had before, while at the same time other sectors of the urban economy offered no alternative means of survival. Moreover, landowners were incapacitated in enabling their children to build around them, meaning another failure to fulfil their cultural obligations. The result of this has been uncertainty among the older generation of landowners in respect of who would take care of them when they became unable to support themselves. Politically, residents lost confidence in their political-administrative institutions, so that a majority of them crossed over to opposition parties.

Msaranga Settlement

Msaranga settlement, which according to the latest population census in 2002 had 9,067 people, has a history as a traditional village, similar to many others in Kilimanjaro region.³ It constitutes one of the 13 administrative wards in Moshi municipality and is one of the least built-up. Its land area, which is 8 square kilometres, was, until the extension of the Moshi Town boundary in 1978, part of the former Msaranga/Mandaka village. The village was registered in April 1976 under registration number KM. KIJ. 103, pursuant to the Villages and Ujamaa Villages Act of 1975. This registration, as with all other villages in Tanzania, gave Msaranga village council the status of a corporate body that could sue or be sued. Following the extension of the boundary, however, Msaranga village council was abolished and reconstituted into a ward under the town council. Being an urban ward, and pursuant to the 1992 amendment of the Local Government (Urban Authorities) Act 1982, Msaranga is presently divided into four sub-wards, namely Rauya, Ngambo, Lombeta, and Msaranga-Msaranga.

Around 1910, the first settlers in the area were allocated the land by the chief of Old Moshi. These settlers cleared the land for farming, but they did not immediately settle in the area because they had homesteads on the slopes of Mount Kilimanjaro at Old Moshi, in the villages of Mbokomu, Mahoma, Kidia, Sango, etc. This exclusive use of the land for farming continued until population pressure began to be felt in these villages, when the new generation was then allocated land by their parents, who had acquired it from the chief. The first settlers therefore established themselves permanently in the area not more than 80 years ago. However, many inhabitants of these villages

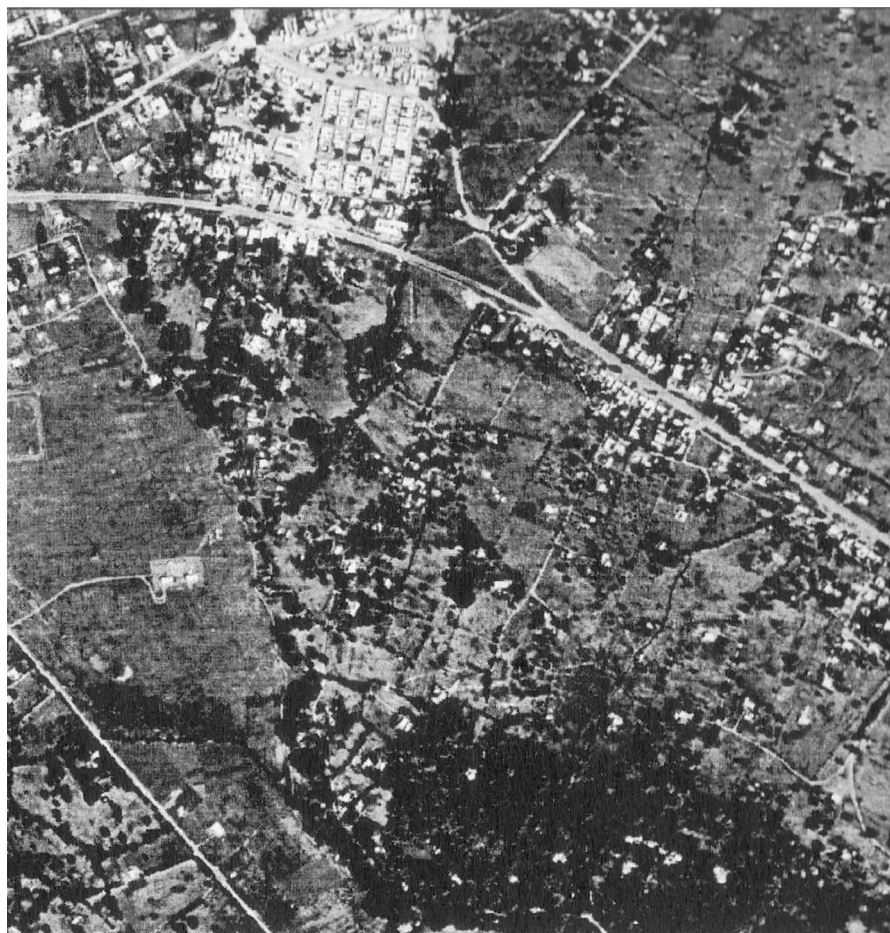


Plate 4.1: Part of Msaranga and Kiboriloni 1983

own land in Msaranga and use it for growing seasonal crops such as maize and beans, because the pieces of land around their homesteads in Old Moshi are too small and are planted with coffee and bananas.

Residents' Meanings of Land

With few exceptions, such as those who bought land, most of the land in Msaranga was held under the customary tenure system, having being inherited from the original allottees. In Chagga culture, to which



Plate 4.2: Part of Msaranga and Kiboriloni 1992



Plate 4.3: Part of Msaranga and Kiboriloni 2003

85 per cent of the landowners belonged, the clan was the custodian of the land occupied by a particular clan. Individuals within that clan had user rights transferable to the next generation through inheritance by males, thus making this form of tenure similar to a freehold system, where land is held in perpetuity. A survey carried out by the author in 1994 indicated that 70 per cent of the responding landowners had inherited land, while only 30 per cent obtained their land through other means such as purchase.

Given the cultural background with regard to land, the way the owners acquired access to it and invested in terms of capital and human energy, land is regarded as private property, with a socio-cultural value as well as a market value. Scarcity of land as a result of population increase over the same land space has contributed to the enhancement of its market value, and hence to increased consciousness regarding rights of land tenure.

The meaning attached to land by the local people could perhaps not be described better than by these landowners:

Landowner 1: This land is my lifeline, from it we get our food, clothes, children get education and we get medical service. We will finally be buried in the same land. I will tell you a joke but don't misunderstand me. We [Chagga people] say: Rather than taking my land, you may take my wife. I can get another wife, but it is not easy to get land.⁴

Landowner 2: This land is my backbone. We should not play with it. Before my father died, he told me to take care of this land. "Never dare sell it. If you do, you will immediately follow me." I have already subdivided the land into five equal portions of one acre each for my five sons. I have also bought a piece of land for my daughter, who is taking care of me.

Author: Why didn't you allocate her a piece of land here in this land?

Landowner: According to our (Chagga) culture I could not do so. Land is supposed to remain within the clan. What if she brings a man and lives with him on this land. He does not belong to this clan, nor do her children.⁵

Landowner 3: This land is my lifeline – *Ardhi hii ni uhai wangu*. When I got it from my father, he warned me not to sell it. He said it is the place where I would raise up his grandchildren and

eventually pass it on to them ... My brother went against this when he sold his land here and moved to Kibaha (520 kilometres away). That was because of fear that the municipal council would acquire it.⁶

Until 1994, agriculture was the predominant land use in Msaranga and the main source of income for the heads of households. The agricultural use of land was previously enhanced by a system of irrigation canals developed by the first settlers which took water from the river Rau. Unfortunately, however, that system had collapsed, because, claimed the villagers, of the dissolution of the local institution which had managed the canals. The institution comprised *wameeku wa mfongo*, the sub-headmen for the canals, whose role among other things was to oversee their operation and maintenance. The abolition of the village government in 1980, whose leadership had assumed among other responsibilities those of the headmen, served as "the straw that broke the camel's back". During interviews with residents, they claimed that life has never been the same since the collapse of the irrigation system. The importance of the canals to the social and economic life of the people of Msaranga and the way the irrigation system was maintained was expressed by one of the residents as follows:

... we got water for drinking, we could grow beans, maize, vegetables throughout the year and irrigate our bananas and coffee. Now we have to depend on the rains and if they fail we are finished ... we have to walk very far to get water (for domestic use). This thick vegetation you see around you is due to that system of irrigation (which existed). We used to have routine maintenance prepared and supervised by the *wameeku wa mfongo*, the same person who was responsible for the routine maintenance of roads and bridges and other community works.⁷

With this background to the settlement, I shall now turn to the preparation of a layout plan of how land would be parceled into plots for the sake of rearranging the spatial pattern of the settlement as conceived by the planners, influenced by their personal values and notions of "good planning", as well as by notions and values embedded in the planning system with regard to, *inter alia*, land use, tenure rights, the exchange value of land, and other interests in land.

Preparation of the Msaranga Layout Plan

On the second day of 1979, the council planner submitted a layout plan for Msaranga/Kiboriloni to the Director of Urban Planning in Dar es Salaam. In the letter of submission, the planner informed the director that:

... this is the first time we have been working across the previous township boundary in an endeavour to create further plots for residential (purposes). This is part of area 15 in the Master Plan.⁸

The planning officer went on to describe the problems he had faced in the preparation of the detailed plan, such as the outdated maps, which were based on an aerial photograph taken in 1971. He said that it had been vital to update the maps before preparing the plan, otherwise many houses built after the photograph had been taken, 8 years earlier, would not appear on the base map and thus would not be incorporated into the plan. He also recognized the importance of taking into account the boundaries of individual land ownership rights, but because of the time needed to map them, he avoided this process and went on to prepare the plan on the basis of out-of-date information about existing properties, which also disregarded individual land-rights boundaries.

As a way of reducing the costs of compensation, however, the planning officer proposed large plots of about 0.5 hectares. Explaining these constraints to the director of urban planning and how he got round them, the planning officer said:

Since plotting the new houses and (land) ownership boundaries of the individual farms would constitute a heavy task causing a delay in the preparation of this layout, large plots were created to corroborate incorporation into plots of these new houses plus the existing ones, most of which are big and substantial, with extensive surrounding shambas (farm holdings). This exercise will reduce payment of compensation, as most of the properties (plots) (if not all) will be granted to the respective landowners presently occupying the land.⁹

Despite the claim to incorporate the existing houses, the use of standardized plot size as shown on the layout plan entailed re-adjustment of boundaries of individual land rights. Following Section 27 of the

Town and Country Planning Ordinance, prior to preparation of such scheme, the Minister responsible for town planning was supposed to declare that area an area to which provisions of the Third Schedule of the Ordinance apply.¹⁰

A copy of this letter was sent to the regional town planning officer, with whom the council planning officer had discussed the detailed plan before submitting it to the director of urban planning in Dar es Salaam. In that copy, the council planning officer noted that:

You will recall that we had a compromise on the detailed plan and as decided we are awaiting the views of the Director of Urban Planning.¹¹

Although in that note the council planning officer suggested that a consensus had been reached with the regional town planning officer, a two-page letter written the following day by the latter to the director of urban planning contradicted this claim:

... In my opinion too many roads join the territorial main road directly. This danger could be reduced by using a service road on either side of the main road ... there are too many staggered junctions. The result of this is that the speed of vehicles in the main and minor roads will have to be reduced. I propose the use of cross junctions ...¹²

As well as offering this view on the layout plan, the regional town planning officer also suggested adherence to what he termed “principles of good planning”, even if it entailed some cost to the government and the people being planned for:

... Although, when preparing a plan, we are supposed to take into account existing development on the land, we are at the same time obliged to adhere to *principles of good planning* (author’s emphasis). One of these principles is to rectify what is not in order. In this plan, for instance, the same road has variable (right of way) width; moreover, the size of plots is too variable to conform to the existing pattern and use. ... This is done to avoid costs of compensation. *In my opinion, we should suffer some costs so as to get good plans, rather than foregoing good plans at the expense of preserving existing development* (author’s emphasis).¹³

In the same letter, the regional town planning officer revealed that:

... the purpose in preparing this plan is to prevent people from invading (land) plots (designated for residential purposes in the Master Plan). There is no urgency in allocating these plots. Therefore the issue of compensation is a long-term requirement which could be implemented in phases depending on the availability of the capacity to do so.

On 6 April 1979, having received the views of the director of urban planning, who agreed with the regional town planning officer's comments, the council planning officer presented the plan to the urban planning committee for ratification, or, rather for "political ingredient", as conceived by the director of urban planning. At that time, the planning administrative procedure required that following their preparation, plans would first be forwarded to the director of urban planning for scrutiny on "professional aspects" before being presented to the urban planning committee for "political ingredient" and then back again to the director for approval.¹⁴ In presenting the plan to the urban planning committee, the planning officer explained the considerations that had been taken in the preparation of the layout plan, including measures taken to reduce the costs of compensation. Reacting to the planner's proposal for large plots, a member of the committee said:

The idea of (surveying large plots for the sake of) retaining landowners on their land would reduce the number of residential plots, which are much needed in the town.¹⁵

Responding to this reaction and supporting the planner's proposal, the regional land development officer, who was also a member of the committee, informed the other members that according to guidelines received from the office of the Prime Minister regarding planning for areas incorporated into the town boundaries, it was desirable to accommodate the present landowners on their respective lands as far as possible, so as to avoid the costs of compensation. Arguing against this, another member of the committee said that:

If the approach explained by the land development officer was followed, then one person might get a plot of three acres or more (considering the present size of plots).¹⁶



Figure 4.2: Msaranga layout plan. “Since plotting of the new houses and (land) ownership boundaries of the individual farms would constitute a heavy task causing delay in the preparation of this layout, big plots were created ...” This statement from planner tells his planning approach which took for granted land holding rights.

Comments arising out of this meeting, together with those of the regional town planning officer, were then used in the revision of the layout plan. The size of plots was reduced to one acre, roads were straightened, in most cases not in alignment with the existing pattern of roads, and the number of junctions with the main road were reduced. Although the plan and discussions involved Msaranga and touched upon residents' interests, no one represented them. In addition, the plan was not deposited for public examination as provided for under Sections 29 and 30 of the Town and Country Planning Ordinance. Four months later, on 29 August 1980, the revised plan was ratified by the urban planning committee. No record could be traced to show that the plan had been submitted to the director of urban planning for approval. However, 4 years later the plan was used as a basis for the cadastral survey of plots in the Msaranga area and in Kiboriloni, formerly part of Kikarara village. The next section explores this survey.

Commencement of Plots Survey

In September 1983, an agreement was signed between a branch of Ardhi Institute, located at Morogoro Town, and Moshi Town Council to carry out a cadastral survey of 504 plots in Msaranga and Kiboriloni wards. After the agreement had been signed, the surveyors travelled 500 kilometres to Moshi to attend to some logistical matters before commencing the survey. Some of the important activities carried out at this time included the setting up of a camp at the regional land development office and a visit to Msaranga and Kiboriloni areas.¹⁷

Before the exercise began, a public meeting was held between Msaranga residents and party and government leaders in the urban district, including the district party chairman; the district commissioner; town director; councilors; and the council land officer. The meeting took place at Msaranga primary school, a place commonly known to the residents as Maendeleo, a community centre. The agenda for the meeting was unknown to either the Msaranga residents or their party branch chairman,¹⁸ who had been directed by his superiors in the urban district to convene the meeting.¹⁹

The agenda was actually the implementation of the Msaranga/Kiboriloni detailed plan, which entailed the demarcation of residential

plots in Msaranga area, contrary to the promise that the area would be left as a green belt to feed the town. This ignited the latent disagreement over the boundary extension and became a source of dispute which culminated in a legal suit against the council. At one o'clock in the afternoon, the residents assembled at *Maendeleo*, waiting curiously to learn what was the meeting all about. According to the Msaranga chairman:

... I was ordered to convene a meeting of all the residents on 13 September 1983. The arrangement would be such that this meeting would be preceded by a meeting of the local leaders in the area. I had no knowledge of the agenda for the meeting. Afterwards, however, I came to realise why the agenda had been kept a secret. They (the district leaders) knew that if the agenda was disclosed to us, we would prepare ourselves to ask them difficult questions, which they would hardly be able to answer. After receiving our guests that afternoon, I introduced the district party chairman to the local leaders and gave him the floor to tell us what brought them. He began to say "I think you are all aware that Msaranga has been part of Moshi Town since 1979. We were supposed to have started survey of plots since then, but we have been making preparations. Now that drawings (layout plan) are ready, the survey will begin."

The town director showed us a map with a large circle marked with a red pen. The area within the circle included Masaranga and part of Kikarara (a neighbouring) village. He said, "this is the area which is earmarked for survey during the first phase of the exercise. After this we will continue to survey plots in the rest of the area. The *kihamba* (land) owner will be allocated all plots (arising from his land) depending on how many he will be able to pay for (survey costs, land rent, and services if provided). A failure to do so means plots being allocated to others." We then asked him, Why were we (leaders) not been informed in advance? Have you come to inform us so that we participate in the decision of what to do or have you come to implement that decision? The response was, "first of all we have been very considerate, otherwise, we could have started implementation right away." As we continued being briefed, suddenly the district commissioner arrived.²⁰

His arrival was said to have spoiled the meeting because of the harsh language he used, as testified by the Msaranga chairman when he described what happened afterwards:

After listening to the discussion, the district commissioner intervened with a sharp and authoritative voice and said, "Whether you like it or not, this area will be surveyed like any other area in the town. You should also understand that in town neither farming nor keeping livestock is permitted. Anybody who does not like this has a free choice to pack up and shift to Morogoro (500 kilometres away), where there is plenty of land for agriculture." This intervention marked the end of the briefing, because everybody remained silent. Before leaving the room to join the residents who had been waiting outside, we were instructed not to ask questions. Our duty would be to educate the people. . . .

When we went out (where the rest of the residents were seated), the district party chairman informed the assembled crowd. . . . (what he told the leaders). One of the residents raised his hand and said, "If this area is now in town and the survey is carried out, then pay us compensation, because we don't want to be in town. We are farmers, give us alternative land so that we leave this area." The answer was no: "go to Morogoro on your own expenses." Another resident asked, "When will the survey commence?" The answer was "today or tomorrow, now we have already informed you." As more questions were being asked, the district commissioner stood up and, in the same manner as in the briefing meeting, said, "Whether you like it or not, the survey will be carried out." Everybody was silenced and chilled by that statement. I heard one resident murmur, "This country has now turned out to be like Bokassa's [Central African Republic]. There is no law . . . this is dictatorship".²¹

The Msaranga chairman continued, saying that the district commissioner's statement marked a peculiar ending to the meeting:

. . . It was common after a meeting for the residents to continue with casual discussions, but this day was different because people left as if they had been at a funeral. Everybody left quietly, almost colliding with one other . . .²²

Trying to recall what had transpired that day, another former village leader said:

... when they came (the district leaders), they first held a brief meeting with the village leaders ... (In his briefing) the district party chairman said, "We have come here to inform you that the survey will soon start to carry out a survey of plots in this area." He was then asked, "Why have we not been informed?" He said – "That is why we are here, to inform you." ... Before going out to meet the people, we (village leaders) were cautioned not to ask questions during the briefing to the people. But we said it would be impossible not to, because the land to be affected does not belong to us (as village leaders)....

They wanted us to remain silent, so that the blame would be put on us after they had left.²³

The informant observed that while pressure was being put on them to justify town expansion to the residents of Msaranga, the district commissioner, who had not been present, arrived. Another informant said, "Before the arrival of the District Commissioner, the other leaders were using persuasive language *lughya ya sukari*."²⁴ Trying to recall what happened that day, the informant recalled the district commissioner having said:

Those who don't want this should give their names, so that they can be resettled in Morogoro (500 kilometres away). After that statement (by the district commissioner) the meeting ended. Everybody left quietly as if coming from a funeral.²⁵

Another informant recalled that:

... the district party chairman told us, "We have come here to inform you that the survey will soon begin" ... In one voice, like a thunderstorm, we said, we don't want that. Then everybody raised their hands wanting to ask questions. One resident asked: "What exactly do you want to achieve by expanding the town towards this area?" He continued and said, "We want to be enlightened as to how the residents (of this area) will benefit from the town's expansion. Once this is made clear to us, there will be no problem." ... Then the District Commissioner intervened

and said, "Whether you like it or not, Msaranga is now part of Moshi Town. Anybody who does not want (to be incorporated) may go to Morogoro." Alas! we thought a war had begun.²⁶

This official position amazed all the residents, because it contradicted what they had been told in 1979 during a tour by a team of politicians and officials from the district to brief them about the extension of the town boundary. During the visit, residents were reassured that they would be incorporated into the town in pursuit of their economic activities and general way of life: "Msaranga will be a village in town to feed the town, a green belt."²⁷ Whatever the meaning attached to this concept remained a puzzle to the people of Msaranga. In an interview, the above informants claimed that even at that time residents heard this promise with disbelief, because they knew that urban plans prescribes how land should be used and developed, according to certain standards. The residents were quite right to be sceptical, because contrary to the idea propounded of a green belt, the 1974 Moshi Master Plan had already designated the Msaranga area for residential, institutional, and light industrial purposes. It was this plan which provided a framework for the detailed plan for Msaranga, the consequences of whose implementation were becoming apparent.

In an interview with the regional land development officer, a town planner by profession, at the time of the preparation of the Masaranga layout plan, he explained what the planners had in mind with regard to the concept of a green belt:

Our original idea [of intervening in Msaranga] was not to displace the landowners from their land, but to survey their land plots so as to prevent the area from developing like Manzese [a dense unplanned settlement in Dar es Salaam]. The main objective was to secure areas for community facilities and infrastructure.²⁸

Author: How did you intend to get round the questions of variable plot size and of how to secure areas for community facilities and infrastructure?

Land Officer: We would, of course, apply certain urban planning standards, and we had an idea of low density development, as in Shanty Town, where plots are an acre or more in size. Also in Dodoma, they have used a broad-acre concept.²⁹ Why not in Msaranga? Regarding services, we would have no alternative except to compensate [for development on the land] the landowners

who would be affected. Agriculture would be permitted, but within the existing urban regulations. However, I left for further studies abroad, before the plan was finalized. When I came back, I found that another person had been appointed to my position . . . Therefore I cannot say much about what happened thereafter.³⁰

As seen earlier, in Chapter 2, this concept was not part of the 1974 Master Plan. Its origin could be traced partly in the Prime Minister's instruction concerning the planning approach for rural areas incorporated into towns after boundary extension and in the broad-acre concept contained in the 1976 Dodoma Capital City Master Plan. It is evident from the interview with the land officer that the concept of a green belt found its way to Moshi through this planner, who before being appointed as a zonal planner and land officer, had practised as a planner in Dodoma. As we also saw earlier, it was also he who indicated the need for a review of the Moshi master plan in 1976, having noted its deficiencies in regard to how agricultural land in the urban fringe was disregarded.

Efforts to Discontinue Survey of Plots

Three days after the meeting with the district leaders, the Msaranga chairman, dissatisfied with its outcome, led a delegation of ten villagers to the district party office, where they were met by the district party secretary. Despite the unhappy conclusion to the previous meeting at Msaranga, the chairman claimed that their reception at the district office was normal. Nobody showed any anger. "... You know, in politics, you laugh at each other as if nothing had happened, but deep inside you are in grief", remarked the chairman during an interview with the author. The chairman informed the district party secretary that:

... Residents of Msaranga have sent us to inform you that they did not understand what was said at the last meeting.... Therefore they needed another meeting with the officials. In response, the district party secretary claimed that "The residents understood (what was said), it is only you who did not." I said yes, I did not understand.³¹

On 27 October 1983, at around half past three in the afternoon, about 800 residents of Msaranga, including their ten cell leaders, assembled at *Maendeleo* area (community centre). The turn-out was considered one of the biggest ever for a village meeting and was attributed to the fact that across the main road in neighbouring Kikarara village, now Kiboriloni area, a survey of plots had begun. That same day, Kikarara villagers had petitioned against the survey exercise to the regional party chairman.³² The Msaranga residents' meeting was chaired by their settlement chairman. There were two issues to be considered at the meeting. The first was the meeting held one and a half months earlier, between the residents and the district leaders, in which the district commissioner had said that whether the people agreed or not, the survey would proceed as planned; and secondly, the suspicion of and blames put on the village leaders that they had conspired with the town officials on the boundary issue.

During the meeting, the residents commented that democracy did not prevail in the process of boundary extension. The chairman tried to explain to the residents what had happened and to convince them that the village leadership was not involved in the decision at all. According to the chairman, however, it was not easy to convince the residents of this. Eventually, however, they became half-heartedly convinced, though they remained indifferent to the decisions to extend the boundary to incorporate their village and to parcel their land – *kihamba* – into plots.³³ The following questions were then posed by the residents to challenge the process and rationale behind these decisions:

- (1) Was the Msaranga leadership involved in the decision to survey plots in the area?
- (2) [Msaranga] is a permanent and traditional village established more than seventy years ago. It is registered under the Act ... of 1975 and given registration number 103 ... [In view of this,] has the parliament repealed the law establishing the village and deleted it from the list of other villages?
- (3) Government Notices no. 42 of 18 September 1983, no. 11 of 25 March 1983 and no. 134 of 2 September 1983 show this village as belonging to [Moshi] rural district council, not the urban council. Is there any other notice to the contrary?
- (4) Were there meetings between the central government, urban council, rural district council, and the villages affected to discuss

- in detail the (extension of the boundaries, its) advantages and disadvantages ...? Were the villagers enlightened about this and satisfied? [If yes,] who was involved on the side of the villagers?
- (5) What government plans are there regarding the future lives of the villagers to be affected by this extension [of boundaries] and, if there are any, have the villagers been informed and accepted them, or rather, is it an arbitrary extension of boundaries, thus leaving the [affected] residents running up and down like refugees in their own country, [a country] which claims to embrace a policy of socialism and self-reliance?³⁴

Having posed these questions, the residents resolved as follows:

- (1) ...the survey should be stopped immediately, pending a meeting with higher authorities other than that of the district. ...
- (2) To appoint a delegation which would follow up the issue at higher levels of the party and government.³⁵

The residents also emphasized that the follow-up should proceed quickly, before the local government elections scheduled for January 1984, otherwise they would be uncertain whether the councilor they were going to elect would belong to the urban or rural council. Meanwhile, the survey which had begun at Kikarara was not progressing as anticipated because the landowners were uprooting the survey beacons, crushing them, and putting the remains on the roads. In an interview, one of the surveyors who carried out this exercise said:

... Every morning, when we went to the site, we found that survey beacons had been uprooted and crushed and the remains put on the roads. To begin with we replaced them, but again they were uprooted and crushed, and a mixture of sand, aggregates and cement put on the roads. This action [of the landowners] made the exercise very difficult.³⁶

Interviewer: Given the above reaction from the residents, what, then, does this survey plan for the area represent?

Surveyor: It is only a representation on paper. Nothing exists on the ground as shown here, because survey beacons were uprooted, crushed and put on the road, as I said earlier.³⁷

Following the above protest, on 9 November 1983, the town director reported to the district commissioner that:

... The survey of plots in the Kiboriloni area has been hindered by two people. ... These people are threatening to harm the surveyors, sabotaging the exercise by uprooting survey beacons and throwing them away. Because of these actions, we are failing to implement the project as intended. Please urgently extend government assistance to us to address this sabotage.³⁸

A month after the survey had commenced, prompted by the residents' protests and objections registered by the residents of Kikarara, the regional party chairman wrote to all the parties involved in the exercise to suspend it until the dispute had been resolved.³⁹ Following this instruction, the surveyors withdrew from the field temporarily, pending resolution of the dispute. Three days later, the town director consulted the district party secretary about the dispute and the questions raised by the residents in their meeting 3 weeks earlier. After the consultation, the town director wrote to the district party secretary to clarify the source of the dispute and stated the council's position regarding the issue. In the letter, the town director stated that:

Kiboriloni and Msaranga (wards), which until 1978 were outside the town boundary, had been carved out of parts of Msaranga and Kiboriloni villages. However, Government notice no. 134 of 25 March 1983 declared the villages to be part of Moshi rural district.⁴⁰

The director argued that since parts of these villages had been incorporated within Moshi Town in 1978, Government Notice No. 134 notwithstanding,

... According to section 9 of the (the Local Government (Urban Authorities)) Act no. 8 of 1982, neither the rural district leadership nor the village leadership is recognized in the areas included in the town boundary. The Village Act of 1975 is irrelevant as regards the areas concerned. The relevant legislation in these two wards is (thus) Act no. 8 of 1982, sections 14–18.⁴¹

Subsequently, the director concluded that:

... the urban council has not encroached on the jurisdiction of the rural district ... The Act cited does not recognize the existence of villages in town, ... (and) the fate of the residents to be affected by the boundary extension in Msaranga ward was explained to the residents at the meeting between them, the district leadership and the Msaranga ward leaders. [After all] the on-going plots survey was accepted by the relevant party and government authorities at town and regional level and approved by Parliament (as part of the municipality annual budget) in June/July 1983.⁴²

This interpretation of the law assumes that, merely by extending the town boundary, the village authorities automatically ceased to exist. This was not quite right, because the villages were still registered and no action had been taken to cancel their registration.

Summary

So far, we have seen how the attempt to change land use in Msaranga from agriculture to housing as prescribed in the master plan was resisted by the residents, thus destabilizing the power relation established during the briefing exercise, using the concept of “green belt” to convince and pacify the residents. As seen in the master plan implementation schedule, Msaranga was supposed to be brought under urban development in the last phase, starting in 1990. Instead, we have seen that the planners decided to intervene in Msaranga earlier, in 1980, immediately after the failure to move the airport to create residential plots. Despite the planner’s claim that the aim of intervening in Msaranga was to prevent squatting, it appears that taking up Msaranga at that time was prompted by the need to compensate for the lost opportunity to create residential plots, following the failure to move the airport. If the real objective of the exercise had been to control squatting, the target area would have been not Msaranga, but Mji Mpya, including Kwa Mtei, Majengo-Miembeni, and Njoro areas, where unplanned growth was taking place because of proximity of these areas to the town centre and industrial area.

Underlying residents’ resistance were their right to participate in decision that affect their lives as provided for in the constitution of

the United Republic of Tanzania; interests in land and what being incorporated into the town entailed, that is, a change from rural to urban culture which was certainly unaffordable by the residents. Moreover, residents' land rights, the social-cultural meaning of land, its exchange value and its use for agriculture are what constituted residents' interests in land. Agriculture was and still is the main economic base of the majority of households in the area, while land is regarded as private property with both socio-cultural and market value. These interests were disregarded in the master plan, as well as in the layout plan for the area. As seen earlier, disregarding agriculture was not accidental but was due to the fact that the planners decided that the sector was declining in importance, despite the fact that it constituted the main source of sustenance for households living in the master planning area and beyond. We saw subsequently that because this reality was disregarded, planning implementation became problematic and made no headway, only jeopardizing residents' interests in land.

This chapter has also shown that without consultation with the residents, and despite having an up-to-date map of the area, the planners arbitrarily proposed a rearrangement of the settlement's land use which entailed a readjustment of landholding rights and hence land redistribution, which would inevitably entail gains to some landowners and losses to others. To the losers, it represented injustice in terms of the use and exchange value of the land they would be deprived of, as well as detachment from the cultural objects on their land, such as graves. This would be culturally unacceptable to the losers, as well as to those who would be allocated land containing such objects. All in all, this redistribution would antagonize neighbours, among other social consequences. As for the landowners with large parcels of land, their resistance was rooted in a fear of being deprived of part of their land by the council if they failed to pay land rent or to develop the land within a period of 3 years, as stipulated in the certificate of occupancy granted under the Land Act No. 5 of 1999.

Underlying the planner's insensitivity to the resident's land occupancy rights is the notion embedded in the planning practice in Tanzania that land has zero value. This notion is rooted in the public ownership of land, whereby those occupying the land are legally entitled to use rights only. Until the Land Act No. 5 of 1999 was put to use in 2001 (compensation is currently paid for improvements on the land and the land itself), if land was acquired for urban development, compensation was paid for improvements on the land, not for the

land itself.⁴³ This is why the planning officer's concern was for the costs of compensation to be borne by the government and not so much for the residents land rights. However, for the sake of "good planning", measured by how the best technical design criteria were met, the planning officer in the regional office was least bothered by the aspect of compensation. This planning officer, obsessed by technical rationality for its own sake, would rather have made the plan even more idealistic by remaining hopeful that the future would solve the problem of compensation.

As in the case of boundary extension, the residents were excluded in the planning process. They were informed about the plan after decisions had been made, not to listen to what they would say, but to pave the way for implementation, especially when resistance from them was anticipated or experienced. The involvement of the residents concerned is not a matter of the planners' discretion but of the resident's constitutional rights. Sections 29 and 30 of the Town and Country Planning Ordinance provide for the public examination of schemes before they are approved by the minister responsible for town planning and eventually adopted. Section 24 of the constitution of the United Republic of Tanzania requires people to be involved in matters that affect their lives. If change of use of their land, the economic base of the residents, does not count here, what does? Therefore, the process of preparing the Msaranga plan was undemocratic and unlawful.

The planners claimed to know what was good for the people, although they could not provide substantive justification for their planning intervention when they were challenged to do so by the residents. Challenges such as how they expected residents who depended entirely on farming to survive, when use of their agricultural land was changed to housing, remained a puzzle to the planners and to the politicians who were allied with them. It was unlikely that the planners could sufficiently justify this change of use, which was based on the assumption inherent in the master plan that the town economy would depend on the manufacturing and processing industries as well as on service sectors. Given the gloomy economic situation in Moshi municipality at present whereby the few industries operational at that time closed, residents' challenge to the planners remains valid than before. Farming is still the main source of livelihood for most residents of Moshi and Msaranga ward in particular.

Chapter 5

Organized Protests Against the “Good Plan”

If there is no struggle there is no progress . . . Power concedes nothing without a demand. It never did and it never will.¹

Fredrick Douglas

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it is the only thing that ever has.²

Margaret Mead

This chapter continues to explore the residents’ protests against implementation of the “good plan”, in an attempt to further understand the discontents, interests, and fears underlying the conflict, which strategies were employed by the residents in pursuing their rights and interests in land, how the political–administrative system responded to the protests, and what were the land-use change implications?

On 25 November 1983, the surveyor in-charge of the exercise wrote to the town director to provide him with a progress report on the work and difficulties they were facing in the implementation of the exercise. The removal of survey marks by the residents was cited as the major problem impeding implementation of the exercise:

... A survey of 500 plots began officially on 11 October 1983. Based on the information received from the camp master, ... the exercise has been carried out for fifteen days only, during which demarcation of 140 plots in Kiboriloni [Kikarara village] has been completed. [However,] some of the [survey] marks have been removed by the residents ... [We] are trying to replace the marks which have been uprooted ...³

Two days later, as supported by evidence from interviews with residents as well as by a letter sent by the Kikarara residents to the Prime Minister, five armed policemen arrived in the village to arrest some of

the community leaders in connection with the survey exercise, which had been suspended. In the letter, the villagers reported that:

... Five armed policemen arrived in the village and arrested some villagers: the village chairman, secretary, and five ten cell leaders[.] They were taken to the police station [for interrogation] ... they were charged with obstructing the plots survey in Kikarara ... they were later bailed [by fellow villagers] for Tsh. 100,000 [about US \$8,000] each ...⁴

The arrest of the community leaders prompted the residents to petition to the Prime Minister against the exercise and to request him to condemn the use of state powers in suppressing them while they were standing up for their rights. In their letter to the Prime Minister, the residents claimed that:

Following the intention to extend the boundary of Moshi Town pursuant to the Moshi Master Plan, the village government heard rumours that part of the village area would be incorporated into Moshi Town. The village [government] was not involved in the decision ... The decision to take part of the village land without involving the villagers amounts to interference of the freedom of village government ... Kikarara is a permanent traditional village whose land is held under the customary tenure system, [whereby] each landowner has his own *kihamba*. Encroachment on individual's *kihamba* amounts to an infringement of their freedom (and right) ... [this] spoils their future lives ...⁵

To safeguard their interests, the villagers demanded the suspension of the whole exercise, pending the clarification of a number of disputes between themselves and the relevant authorities. They also pointed out the contradictions between the council's planning intervention and national policy. Outlining their position, the villagers demanded:

- (1) The surveying [of plots] on their *vihamba* be stopped forthwith until the whole issue [boundary extension and survey of plots] is resolved or the merits and demerits of the decision have been clearly understood [by the residents].
- (2) The residents need to be informed about the fate of their *vihamba* ownership rights ... because otherwise their lives would be

destroyed and they would be subjected to sufferings, as if they were refugees in their own country.⁶

The residents' demands were based on the understanding and belief that:

... to take the citizen's right over their land which they inherited from their parents and grandparents, parceling it into urban plots, was to deny them the right to live The party and government were encouraging those with insufficient land in Kilimanjaro to move to other areas [regions], but not to take land from those already in possession of it and to allocate it to others.⁷

To substantiate their objections and demands, the residents argued that:

... To parcel the land into urban plots would stifle landowners' capacity to produce, because if five acres were needed to satisfy a family's needs, how could one acre be enough? All land for crop production would eventually change into rental housing area or commercial buildings ... Is it the policy of the party to change productive land into non-productive? ... All those who will be affected by the boundary extension will be subjected to urban regulations and bylaws, such as the payment of land rent ... some houses will have to be demolished in order to achieve order in accordance with town-planning ideals; trees and other vegetation will be destroyed and irrigation canals closed, leading eventually to desertification. Since not all residents can afford these changes, circumstances will force them to migrate out of this area. Given the [difficult] economic conditions [at that time] to establish new *vihamba*, where will they go?⁸

Moreover, the villagers claimed that:

... those to be allocated plots were well-to-do people ... most of them had their *vihamba* in the villages. They needed plots for rental housing and commercial buildings. Would they be ready to spare part of their *vihamba*, at least an acre, to exchange with those whose land was to be subdivided into plots? If not[,] it implied that the economically powerful (group) would continue to

be even more wealthy. Is this the policy of *Chama Cha Mapinduzi* – CCM (the ruling party)?⁹

Finally, the residents

... requested the government to safeguard their *vihamba*. [After all] the government was encouraging people to move back to the villages in order to produce, but in this case town growth was encroaching on their land ... [thus reducing land for agricultural production].¹⁰

There is no doubt that the questions posed by the residents and their arguments are basic to any sensitive planning system. Moreover, there are several contextual messages embedded in the questions, including the significance of land and of cultural traditions of inheritance as practised by the Chagga people, the residents of the area; the use of land for agriculture, which is the backbone of the residents' economy; and the value of land. The residents were also reflecting on the implications of the intervention with respect to equity, which was one of the theoretical concerns of planning intervention in the development process.

Establishment of Residents' Committee

Seven days later, having seen what had happened to their neighbours in Kikarara village, the Msaranga villagers decided to pursue the issue in an organized manner. They established a committee which would be responsible for mobilizing the residents and following up the issue with the responsible authorities. The committee, which in this account will be referred to as the Residents' Committee, comprised 12 people, including representatives from the neighbouring villages which were also affected by the boundary extension and survey exercise. Among the members of the committee were well-educated retired government civil servants. Some of them were particularly active and up to date with regard to government policies and decisions, especially those relating to their dispute with the council. They had a network supplying them with relevant information. At the time of my fieldwork, they were still closely following the progress of the case in the court.



Plate 5.1: Some of the members of the Residents' Committee, champions of the struggle

After it had been set up, the first task was to write a letter to the Prime Minister to try and convince him to reconsider the boundary extension and survey of plots in Msaranga. In the letter, the residents maintained that the decision had caused uncertainty and insecurity of tenure and of investments among the residents. In qualifying their request for a reconsideration of the boundary extension, they argued that:

... (Msaranga village) has land with high fertility, which makes it suitable for agriculture ... the residents have built permanent houses on their *vihamba* and planted trees and permanent crops (coffee). The residents view this area as their permanent home and graveyard. They have developed the area for future generations as well. In view of this, the decision to extend the town boundary to engulf this village is unacceptable There are four major reasons which make us believe that this decision should be reviewed:

1. Given the urban regulations in place, most residents will be forced to move from this area;
2. The decision to extend the boundaries of Moshi Town was reached by (regional and district) leaders without involving the villagers. The main fear is with respect to their future ...

3. We ... are not convinced that town development should necessarily entail extension of area. There is a need to consider the possibility of high-rise development instead of the present style of bungalows.
4. The behaviour of the district leaders not to engage in dialogue with the villagers, on the basis that they have come to execute directives, not to persuade, worries us very much ... in implementing such directives, villagers' rights should be taken into account.¹¹

Three weeks later, despite this request, the survey began in Msaranga area. Responding to the author's question as to how the survey began in their area, the chairman of Msaranga said:

I remember this day vividly because it is the day I was summoned to the Central Committee of the Party in the region The surveyors reported to the ward office, where they found the ward secretary. They signed the guest book and thereafter began survey work according to their map (plots subdivision plan). The first and second days passed peacefully, but on the third or fourth day, some of the residents concerned came out with swords, others with bows and arrows, and chased away the surveyors, who left their survey equipment behind....¹²

Another resident recalled that:

... On arrival at one homestead, they started clearing and cutting some plants around a graveyard. In this home lived a widow, and the graveyard belonged to her late husband. She looked at the new faces and asked them what they were doing, but they kept on cutting down the plants. She raised the alarm – *akapiga ukunga, u-wiii* – which brought many neighbours. On seeing the mob, the surveyors took to their heels and went back to the town director to report the incident. The town director reported to the DC [District Commissioner] who sent police officers to arrest the village chairman, secretary and five ten-cell leaders. They were taken to the police station, where a charge sheet was prepared for them, for obstructing the surveyors in carrying out their duties. The village leaders were bailed out. The village council engaged a lawyer [name mentioned] based in Arusha to

defend them. The case took four months, but finally the village council won. This case was a precursor of the whole complaint involving the three villages.¹³

A third resident recalled his experience of the surveyors coming to his area as follows:

I was at my home, at around nine or ten in the morning. I saw a rope being stretched from the dispensary right to my house. I saw people bringing (survey) equipment, others had, I don't know what you call those small stones [beacons]. Then I saw a soldier with a gun. I thought this is serious. I then asked the surveyors, What is this [that] you are doing? They said, "We have been ordered by the government to carry out a survey in this area because this is now part of the municipality. These areas need to be well planned so that you can pay [land rent] for the plots because you have now been incorporated into the town." I continued to ask them, Didn't the government see the need to involve us? They told me, "*Mzee* (old man) this question is outdated, we are carrying out our duty, don't waste our time." They went on surveying for the whole day. After work hours, they left. We residents remained, we started uprooting the beacons, threw them away and waited to be arrested and charged. The following day, we were told that they went to a neighbouring area, where one woman took a machete, wanting to chop off a surveyor's head.¹⁴

It was not only that lady who might have caused harm to the surveyors. Anger and ill intentions dominated the minds of the landowners, as was claimed by another landowner, who, when coming home from work, learnt what had happened during his absence:

... I wanted to kill the surveyors. I came home at 4 o'clock, the surveyors had left, leaving behind the survey beacons. [Seeing them,] I asked who left these beacons here? I was then told, "It is some people from the town [council]. They were carrying out survey of plots. They said there will be a road passing through our house." I vowed to kill them, and therefore decided that I would not go to work the following day. I would wait for them. My mother advised me not to kill anyone But what sort of

government is this? They told us this will be a green belt so that we could continue farming and keeping livestock. Now they want to survey plots, hell The following day, I went to work full of anger¹⁵

Considering that protests and confrontations were not delivering results expected by the residents, an alternative strategy was contemplated. This time around the residents contemplated taking a legal action against Moshi Municipal Council.

Seeking Legal Advice

Having failed to receive a response from the Prime Minister about their request, and seeing that the plot survey continued, the villagers resolved to seek legal advice. They contacted a lawyer who had handled a similar dispute between Longuo residents and the municipality. The decision to involve a lawyer averted a possibly damaging outcome, as another informant, a member of the Residents' Committee, claimed:

... if we had not asked the residents to calm down and be patient, they would have killed the surveyors. We asked them to do so because we trusted that a lawyer we had contacted would ably handle the matter.¹⁶

In the meantime, on 30 December 1983, the principal secretary in the office of the Prime Minister wrote to the Ministry of Justice to state the government's position in respect of the issue of Moshi Town's boundaries. This was not, however, communicated to the residents concerned, so they kept knocking on the doors of different authorities at national level, hoping that they would be heard. The clarification given by the government in a letter written to the town director by the principal secretary in the Prime Minister's Office stated as follows:

It is hereby clarified that Government notice 134 of 2 September 1983, which established the boundaries of Moshi District Council, does not in any way replace or alter Government notice 117, which established Moshi township boundaries in 1979. Therefore, the [following] villages[;] Kikarara, Mdawi, Msaranga, Rau, Longuo,

Kariwa and Shirimatunda, referred to in Government Notice 134 quoted supra, are parts of portions of those villages which are left out by Government Notice 117 The parts or portions of the said village which became part of the urban area by Government Notice 117 remain part of the township area in the [following] wards; Longuo, Rau, Kiboriloni, Msaranga and Karanga of the Moshi township The village of Kiboriloni, which appears in Government Notice 134, still forms part of the urban area, and Government notice 134 is hereby amended by deleting the name.¹⁷

Despite the above explanation, on 1 January 1984 the town director received a warning from the lawyer engaged by the residents of the affected villages, requiring the council to “immediately desist from” its illegal activities in Msaranga. According to the lawyer, the illegality of the council’s intervention was linked to the fact that:

[According to] Government Notice no. 42 of 1983[,] the Government of the United Republic of Tanzania indicated its intention in declaring the extent of certain districts and it asked anyone with interests to make those interests known to it before a date given in the gazette. It was clear in that gazette that all areas of the three villages mentioned were to be included within the boundaries of Moshi District and not in Moshi municipality. [The] municipal council did not object to the intentions of the Government as indicated in that gazette.¹⁸

The lawyer went on to say that:

Consequent upon that and upon expiry of the period of the notice, the Government confirmed its intention This information is, as we understand it, well known to you. To the surprise of our clients, and despite your clear knowledge of the legal position as indicated in the two Government notices mentioned herein and in spite of the protestations by the councils of the three villages, you have illegally insisted on extending the boundaries and administration of Moshi municipality to include the whole or part of the areas of the villages mentioned herein. TAKE NOTICE that unless you immediately desist from extending illegally the boundaries and administration of Moshi municipality to any part of

these three villages, legal action will be taken against Moshi municipality without further notice and at cost.¹⁹

This notice, protests, and confrontations by the residents prompted changes in the way the whole exercise of surveying plots would be handled by the local authority. Persuasion and negotiation began to form part of the vocabulary of the administrators and politicians as shall be seen in the following section.

Persuasion to Facilitate Survey of Plots

The following day, politicians and government officials of Moshi urban and rural districts held an emergency meeting with the residents of the three villages involved in the dispute. The meeting was held in the former Msaranga primary school, where a crowd of 400 villagers gathered together with their leaders at village, ward and division levels. At the urban district level, the key leaders attending this meeting included the district commissioner, who chaired the meeting; district party chairman; secretary; administrative officer in the district; the mayor of Moshi Urban Council; the town director; councilors for Msaranga and Kiboriloni ward; the council planner; and the surveyors commissioned to carry out the survey.

The party chairman for Kiboriloni urban ward, the venue of the meeting, stood up to open the meeting. This was unacceptable to the residents of Kikarara village, who did not recognize their area as being part of Kiboriloni ward in Moshi Town. They protested and insisted that their party branch chairman should open the meeting. To save the meeting from disintegrating, the district officials accepted this demand. As required by protocol, the party chairman of Kikarara village invited the party chairman of Moshi urban district to introduce the special agenda of the meeting: "A dispute on the extension of Moshi urban boundary after the reestablishment of urban councils in 1978." To start with, the Moshi urban district party chairman asked the party secretary for Moshi urban district to read a letter from the *Chama Cha Mapinduzi* (the ruling party) regional office which contained a directive of what should be done regarding the dispute. The letter supported the government's decision to extend the town's boundaries, and therefore all activities, including the already begun plots survey, would proceed. Taking his turn in the meeting, and recognizing the

residents' concerns, the party chairman for the rural district assured the villagers that:

... Nobody would be deprived of his or her land in the process of surveying plots in the area. Plots would be left to those concerned [holders of land rights] and would not be allocated to outsiders, as had been done before.²⁰

This promise was also echoed by the party chairman of Moshi urban district in his reassurance to the residents. He also gave the objective of the survey exercise as being:

... To ensure beauty, because the planning and survey would bring good order in the development of buildings. No house would be demolished, be it permanent or built of soil blocks or mud. If land were required by the government for public facilities; schools, dispensary or market, agreement would have to be reached with the landowner and compensation would be paid [only for properties on the land].²¹

Despite this reassurance, the residents remained dissatisfied and opposed to the decision to incorporate them into the town. One resident who was given a chance to speak did not see the reason for the government sticking to the decision to extend the boundary and plot survey if it could not be justified to the residents. In trying to challenge the decision, the resident said:

Government is like a doctor who diagnoses a patient. If, based on the patient's ailment, the doctor prescribes an operation as the right treatment, but the patient refuses, the doctor will have to leave him or her alone.

Another resident, disturbed by the failure of officials to justify government intervention, said:

The areas being surveyed are *vihamba*, not *mashamba* [farms]. Was there any conflict [over ownership rights] among the owners which called for survey? With whom did the regional leadership in Kilimanjaro discuss and agree the decision to extend the boundary?²²

Finally, contributing to the debate, the former councilor for those parts of Moshi rural district that had been incorporated into the town observed that:

If the government issues an Order or Notice, it should be repealed by another Order, not a letter Therefore the letter from the Prime Minister cannot nullify a Government Order ...²³

Responding to some of the questions posed by the residents, the party chairman for Moshi urban district said:

It is true that there are patients who refuse an operation, even if a doctor deems it fit. But the doctor will struggle to persuade the patient until he or she understands and accepts the prescription That is why, since 1978, leaders have been persuading you. Not every decision (however) should involve people. Certain decisions on development matters are made by their representatives.²⁴

The residents asked many more questions, indicating their dissatisfaction and total disagreement with the decision to extend the town's boundaries. The more questions were asked, the more chaotic the meeting became, because of increased noise and commotion. This happened despite the requests of the urban district party secretary for the residents to remain calm. Finally, the meeting ended at four o'clock in the afternoon, without the two sides agreeing. In closing the meeting, the urban district party chairman referred to Government Notice No. 117, and concluded that:

Once an Order has been passed, it can neither be changed by this meeting nor by the two district authorities Therefore, we expect co-operation in implementing this order from the Government.²⁵

Meanwhile, the urban planning committee met on 18 January 1984 to consider the problem of plots in Moshi Town, which by then had 6,000 applicants. The planner reported that the survey of Masaranga and Kiboriloni, which had been intended to meet part of this demand, had been suspended because of protests from the residents. He attributed this event to instigation from outside the areas concerned. In

addition, the planner reported how some landowners with large pieces of land had started selling them and building speculatively.

A few instigators from outside these villages, perhaps with interests in the areas, have caused the survey work, which had begun well, to stop after 140 had being surveyed. Residents confronted the surveyors and warned them that if they were seen in the area they would be attacked However, we have discovered that landowners with large pieces of land in Msaranga and Kikarara have sold them and that people are rushing to build.²⁶

Dissatisfied by the conclusion reached at the previous meeting, and ignorant of the explanation made earlier by the principal secretary in the Prime Minister's Office, on the following day the residents decided to send a delegation to the Prime Minister's Office in Dodoma regarding the issue of the extension of Moshi Town boundaries. This delegation, comprising two members of the Residents' Committee, took with it a letter containing residents' complaints. In the letter the residents observed that:

... We villagers of Msaranga in Moshi rural district have once again been forced to write about the extension of the Moshi town boundary ... [because] until now it seems the issue in question has not been clear ...²⁷

They then gave their understanding of the issue as follows:

1. According to Government Notice No. 117 of 9 November 1979, the declared boundaries of Moshi Town affected some villages, including our village Msaranga.
2. That notice was followed by Government Notice No. 42 of 25 March 1983. This listed all the villages which would belong to divisions and wards of Moshi rural district; Msaranga village was one of them. The notice required anybody with an objection concerning the list to register his or her complaints or reasons for the objection within sixty days (As this was not done by the council.) ... Msaranga village plus all the others earmarked to be incorporated into the town following notice 117 ... have not been incorporated ... we Msaranga villagers extend our thanks to you,

the party and government for the mentioned government Orders and Notices (Nos. 134 and 42 of 1983) ... which certify that our villages are in Moshi rural district We (would otherwise) strongly object to a decision to incorporate us in Moshi town²⁸

However, the residents' worries hinged on the fact that:

... Moshi Town Council is still clinging to the decision to extend its boundaries and (evolving) strategies to accomplish that, disregarding Government Notice No. 134.... (Moreover) we wish to inform you that the (land) area under the village does not belong to Msaranga residents only—there are *vihamba* belonging to villagers residing in Mbokomu, Tella, Mahoma, Kidia, Mdawi, Shia, etc., who use the land for growing crops such as maize, beans, ... which supplement food crops produced in their residential village farms, where coffee is also grown.²⁹

Lastly, the residents requested the Prime Minister to intervene and reverse the decision to extend Moshi Town boundary. Fifteen days later, no response had been received from the Prime Minister. Subsequently, the residents began to wonder what had happened to their letter to him, a suspicion which made them send another delegation of two persons to his office in Dar es Salaam. This time the delegation comprised the chairman of Msaranga village, who was also a member of the Residents' Committee, and another member of the same committee. In the office of the Prime Minister, they were attended by his personal assistant. Responding to the author's question as to exactly what transpired while they were at the office, the chairman said:

We were met by a young man with a pleasant character. We introduced ourselves and told him where we came from and the purpose of our trip. Then we gave him our letter, which he opened and read. Afterwards, he asked us to wait while he went to another office, which we later came to realize belonged to the minister responsible for local government, ... [name mentioned] who later became the Regional Commissioner for Kilimanjaro region. When he [the personal assistant] came back, he told us that the minister was aware of our issue and that we would soon get his response.³⁰

The chairman said we requested some proof to show to fellow residents that they had been in the office of the Prime Minister, and received a note from the personal assistant. The note, with compliments of the principal secretary in the office of the Prime Minister, written and signed on 21 January 1984, stated that:

The delegation sent by the Msaranga villagers to see the minister [of state in the prime minister's office responsible] for local government [has been here]. The minister for local government ... [name mentioned] has directed [its members] to go back to Kilimanjaro region to follow up their issue with ... [name mentioned] the director of Moshi town, who has been asked ... to investigate the whole issue and report to him in detail, in the office of the prime minister.³¹

As the chairman claimed, judging from that note the residents were very discouraged, because they realized that their initiative to use the Office of the Prime Minister was not yielding the required results, particularly as they were directed to the town director, whose decision and actions were at the centre of the dispute. From that time on, the residents held several meetings in an attempt to find a solution to the issue. Every time the chairman held a meeting, he was arrested by the police for interrogation, on the pretext that he had organized an illegal secret meeting. The chairman reported this to a Residents' Committee meeting held on 25 May 1984. He explained how he did not have the freedom to convene meetings, because every time when he did so he was summoned by the police to answer charges of holding an illegal secret meeting. Acknowledging the importance of the meetings organized by the chairman, without which it would have been difficult for them to pursue their interests, members of the committee expressed concern about these interruptions by the police. And following the failure to obtain a solution to their problem from the political and executive authorities at the district, regional, or national levels, members of the committee decided to involve the judiciary in resolving the matter.³²

Meanwhile, uncertainty and insecurity of tenure were pervading the minds of the residents. Some of them were brave enough to wait and see how this matter would be decided and were therefore not tempted to sell their land. Those who sold part of their land had begun to regret

it, because they could no longer sustain their households on the land left unsold. Describing his plight, one landowner said:

... Having heard this (plots survey), I thought that instead of losing this land, on which I had toiled so much to bring to its present state, I would rather sell it at least to recover the sweat which went into it. I sold three pieces (of land) in 1982, another one in 1983 and the last one in 1984. The last two pieces were 1/4 an acre each (and went) for Tshs. 15,000 and 30,000 respectively The one which I sold for Tshs. 15,000 was bought by a relative of mine. The first three pieces, which I sold in 1982, were rather small, all 50 by 70 feet. The first two I sold for Tshs. 600 and the third for Tshs. 2,000. Then I thought I should not sell the remaining part, come what may. All that land I sold at a throwaway price.... Selling part of my land has been a big loss to me because the space available for farming has decreased. I cannot even show what I used the money for. I remember having used part of the money on petty expenditure People are really running around to look for food and other means of survival We now rent land in areas such as Mandaka Mnono for growing maize, beans, etc. The price per acre per season is Tshs. 10,000.³³

Another landowner, who had sold part of his land and was left with a plot of a quarter of an acre to support a household of six, regretfully confessed that:

... I would not hesitate to move out of here if I could get a person to exchange with this land for a bigger area for farming. We are now trapped in an urban area where we cannot survive. Look about you and see how dense the settlement is. There is no room for farming. We have nothing to depend upon in this area. There is no water, there is nothing Even you ..., if you can secure me farming land for exchange, I am ready to move.³⁴

As insecurity of land tenure pervades, unguided growth proceeds in the unplanned settlements designated for improvement in the master plan. In a letter written to the town director by the head of the council planning department, the latter observed that:

Unplanned development is proceeding at a shocking speed in various parts of the town ... areas affected by this type of development

include Msaranga, Kiboriloni, Mji Mpya, Majengo/Njoro, Kaloleni, Pausa (Boma Mbuzi) and Sirimatunda area, which (the master plan) designated for heavy industries...³⁵

To address this problem, the planning officer suggested three development control strategies, which, he believed, if implemented would go a long way towards redressing the problem of unplanned development:

... to register all the houses existing in the indicated areas ... this information, apart from being useful for the identification of additional buildings, will also facilitate the collection of property taxes from property owners. The department suggests the recruitment of four land rangers to reinforce it in executing this task ... All councilors, ward secretaries supported by ten-cell leaders, should assist by educating the people in their area that building without a permit from the council is a violation of urban regulations ...³⁶

This recommendation was endorsed by the director, so that four land rangers were employed by the council, and local leaders were required to control development in their respective areas. The land rangers were assigned to different unplanned wards and required to report any unauthorized building activity back to the planners. Upon being informed about unauthorized development, the developer concerned would be served with an order to stop building. Such orders were ignored, particularly by landowners, who claimed that they were building on their own land. As confirmed by a planner who had been active in this exercise, "It was a nightmare restraining landowners from building on their land. We sometimes confiscated tools used by the masons we found on site In one instance, however, when we tried to do so ... [a planner, name mentioned] was beaten up by the masons ..."³⁷ On the other hand, the local leaders could not control development, for while they were responsible for sanctioning most building land transactions, some of them were receiving "something" from those who were dealing in land.

While the planners sought to restrain unauthorized development, they were themselves busy encroaching on open spaces and cemeteries, where a few plots were created and dubiously disposed of to developers. Aggrieved by this practice, perhaps because of a breakdown in their usual alliance with the planners, the regional surveyor reported this malpractice to the director of urban development in

Dar es Salaam.³⁸ Six months later, the director required the regional town planning officer to identify and report to him the planner responsible for this malpractice.³⁹

Summary

So far, this chapter has shown that the political-administrative system, having failed to use the power of argument to counter the residents' arguments, resorted to naked power in suppressing the village leadership and the people's voice. This did not, however, discourage residents from seeking justice through the judicial system by charging Moshi Town Council with trespass. The protests by the residents and confrontations with the actors in the planning system, at least began to reshape the way the later related to the residents. The administrators and politicians began to embrace persuasion and negotiation instead of prescription and domination. On the other hand, negative outcomes include destabilization of residents' main source of livelihoods so that instead of alleviating poverty, planning contributes to poverty and creates insecurity of land tenure, and subsequently fuels unguided urban growth which planners grapple with seemingly without success.

We now leave the planners grappling with the problem of development control and take the reader to the High Court at Arusha, where the residents filed a legal suit against the Council for trespass, after failing to obtain a resolution of their dispute through the political-administrative system.

The Council Is Charged with Trespass

There are no states with no laws, although there are certainly states where very little attention is paid to law, where such laws as there are, are more concerned with conferring powers on government than rights on people or checks on government power.¹

McAuslan

The town council's seemingly insensitive and unlawful planning practice had now landed it in the court of law for trespass. The charge was trespass in connection with the extension of the town boundaries, and what prompted this extension was the master plan. This chapter examines the legal representations and hearings of the residents' claimed rights and interests, and how the judiciary interpreted them in the process of administering justice. Initially, the residents sought to restrain council administration and planning activities in Msaranga on the grounds of trespass, as contained in their complaint. From the particulars of the trespass, we shall begin to see more specifically the discontents underlying the dispute – the exchange and use value of land, which is disregarded in land-use planning, in official transactions of land, and deprivation of the right to participate in decision making. Moreover, by listening to the representations of the lawyers, we shall be taken into the particular points of legal and administrative conflict which underpin this dispute. As we follow this form of public hearing of conflicting interests between the residents and the council, the following questions will be posed: What exactly are the claims of the residents on the one hand and that of the council on the other, as presented by their legal experts? How urgently and fairly will the judiciary address itself to this intricate matter, which questions the state's decision and action? Will the court restrain the council in accordance with the residents' application? In view of the ruling, what will be the response of the council with regard to its administration and land-use regulation role in Msaranga?

The Complaint

Two weeks after the decision to involve the judiciary had been reached by the residents of Msaranga, their village council, Kikarara village council and Mdawi village council filed a legal suit against Moshi Town Council. Legal Suit Civil case No. 52 of 1984 was filed in the High Court at Arusha. In the complaint, it was claimed that:

... The first plaintiff, the second plaintiff and the third plaintiff are each respectively vested with pieces or parcels of land adjacent to each other for and on behalf of the inhabitants of their respective villages. Their said pieces or parcels of land are divided in small unregistered holdings, commonly known as *vihamba*, [which] are lawfully allocated to the individual inhabitants of these villages. These inhabitants have individually and separately according to their separate ability and desire developed their respective separate and individual *vihamba*.²

The complaint also indicated the extent of development and properties existing on the land, whose value was estimated as detailed below:

On these *vihamba* there are developments such as cleared and developed agricultural lands; permanent houses; temporary houses; coffee trees; fruit trees; trees for timber; pasture lands and domestic animals. The village inhabitants have also, by their joint efforts and contributions, built and run primary schools; dispensaries; roads and pathways; and other public services. The inhabitants of the villages lead a rural life, and they depend totally on their *vihamba* for sustenance. The total monetary value of the properties and developments in the respective villages are Tshs. 100,909,110 for Kikarara Village; Tshs. 239,086,500 for Msaranga village, where also the said Msaranga Village Council has a primary school valued Tshs. 3,000,000; and Tshs. 40,521,725 for Mdawi Village.³ The plaintiffs are also suing for and on behalf of the inhabitants in Kikarara, Msaranga and Mdawi villages.⁴

In case of displacement, it was categorically stated that the residents would demand full compensation to the value stated, which the council could hardly afford. As seen earlier, the avoidance of having to pay compensation was the main consideration of the council planning

officer when he was preparing the subdivision plan for the area. The complaint also argued that the villagers were concerned by the implied cultural change from a rural to an urban way of life:

The villagers who live under the jurisdiction of the plaintiff councils have no other place to go and live their rural lives in the same conditions and places and locations as at present. And if they are dislocated or displaced, unless they are compensated fully and promptly, they will irreparably be damaged by the attendant losses engendered by the dislocation or displacement. The defendant has unreasonably and unlawfully sent its officers and/or agents to commit trespass upon the land belonging to the plaintiffs and on the properties belonging to the inhabitants of the villages. And the said officers and/or agents have continually done so.⁵

In the complaint, the particulars of trespass were specified as follows:

... The Defendant has purported to annex and take over the primary school belonging to and being run by Msaranga Village Council, the second plaintiff The Defendant has sent in surveyors to parcel out plots to allocate and sell to other persons; the villages are threatened with dislocation and displacement. ... The Defendant has purported to extend its administration over the areas of the lands and territory now under the lawful jurisdiction of the plaintiff Village Councils and lawfully under Moshi Rural District. ... The Defendant has not carried out the valuation of the property and development in those areas and has not offered to pay full and prompt compensation to the plaintiff councils and/or to their respective inhabitants.⁶

Before carrying out a planning scheme, land law requires the clearance of third-party interests on the land designated for development. This requirement was deliberately avoided with the excuse that land would be allocated to the present landowners. Recognizing that a land subdivision plan – applying given standards and setting aside land for public facilities – would entail a redefinition of property rights, compensation would be inevitable. This reality was taken for granted in the preparation of the Msaranga layout plan. When the plan was finally implemented, however, individual vihamba were parcelled into plots for

residential and community facilities, roads, etc. Legally, implementing this scheme amounted to trespass. The complaint therefore concluded that:

... by these trespasses the plaintiff Councils and all the inhabitants under their jurisdiction have suffered damages and losses and they are threatened with displacement and dislocation of their both style of life and established developments. ... The plaintiff councils claim compensation by way of specific damages of Tshs. 100,909,110 (US \$630,682) for Kikarara Village and Tshs. 242,086,500 (US \$1,513,040) for Msaranga Village and Tshs. 40,521,725 (US \$253,261) general damages for trespass, disturbance, disruption, dislocation and displacement and the cost of resettlement elsewhere. ... The Defendant's officials/agents commit annoyance and nuisance when they are sent by the said Defendant in these Villages. General damages are claimed for these sufferings. ... Despite demands and efforts to stop the defendant, the latter has persisted and ignored these demands and efforts. The Defendant has also ignored notice of intention to sue ...⁷

The villagers therefore petitioned for judgement and decree against the defendants as follows:

(a) A declaration that Government Notices No. 42 of 1983 and No. 134 of 1983 bar the Defendant from extending its jurisdiction over said part of the territory under the jurisdiction of any of the plaintiff councils. (b) Order for permanent injunction against the Defendant and/or its officials/agents against committing any trespass, annoyance and/or nuisance upon any part or property within the jurisdiction of any of the plaintiff councils. (c) In the alternative and without prejudice to any of the other prayers herein, the Defendant to be ordered to pay fully and promptly specific damages of a total of Tshs. 833,517,335 (US \$520,948) and general damages or the agreed specific damages and resettlement costs and general damages for any portion or any property prior to being annexed by the defendant. (d) Payment of the costs of this suit. (e) Payment of interest on the decretal amount on the court's rate of interest from the date of filing this suit to the date of settlement in full. (f) Any other relief as the Honourable Court may deem fit to grant.⁸

Although the dispute between the council and the residents of Msaranga was essentially a land-use planning issue, not until 6 August 1984 was it reported by the residents concerned to the Minister for Lands, Housing and Urban Development. In reporting the dispute, the residents claimed that:

This matter was discussed at district level and strongly objected to by the Moshi Rural District Council as documented in minute 15/78 of a meeting held on 22 August 1979. ... On 13 September the District Commissioner Mr ... accompanied by other government and party leaders (in the district) convened a meeting in Msaranga village. ... In his speech he openly said that – Whether you like it or not, this village is part of the town (.) The survey will proceed (.) We have not come here to persuade you (.) And all those who do not want to be residents in the town should themselves enroll, so that we can take them to Morogoro. Moreover, you should know that farming and keeping livestock are not allowed (in the town) ...⁹

The residents informed the minister about the treatment they had suffered under other government and party officials at district level. They challenged the minister, if he doubted the representativeness of their dissenting opinion about the boundary extension issue, to carry out a referendum. Before making this suggestion, the residents expressed dissatisfaction and offered their views on the way government officials had dealt with them:

We were very much shocked by this statement (whether you like it or not), because we felt that the party did not value our rights. This is comparable to the Boers' (oppressive) policy, which does not value human rights. Having realized that our rights and future lives were not being protected (by the government), our confidence (in it) disappeared. For more evidence on the issue (the preference whether to belong to Moshi Town or not), we request the party and government to call a referendum of all villagers and the residents of Old Moshi who have vihamba in Msaranga, so as to establish where the truth lies (,) This is the only way to promote democracy.¹⁰

No response was received by the residents from this ministry, which is responsible for all land development and planning matters in the

country. Such a bold initiative by the residents to safeguard their interests did not at all please the party officials in the district. Proof of this was the punishment handed out to the chairman of Msaranga, a week later, when the district party secretary wrote to the Msaranga chairman to warn him against what he had referred to as “indiscipline actions” and terminated his salary as chairman of the settlement. He also warned him to desist from mobilizing residents to object to government decisions, otherwise he would be suspended from leadership.

This office has written evidence that together with few other residents of Msaranga you don't recognize that Msaranga (party) branch belongs to Moshi Town. . . . Your action in tearing off the town map and deleting the word (town) on the (official stamp), replacing it with village . . . is a proof to this fact. . . . Because you don't recognise Moshi town authority, you have strained the relationship between the district and the residents of Msaranga (,) you are confusing them by convening illegal meetings and collecting money from them to finance trips to the office of the prime minister in Dodoma to object to party and government decisions which incorporated Msaranga into Moshi Town. . . . Moreover, you have been at the forefront of attempts to persuade residents to object the decision to incorporate them into the town. And filing a legal suit against the council in the High Court at Arusha. . . . Because of all these actions . . . the district party office deems it unfair to continue paying your salary . . . Unless you desist from such actions, the district office will propose (to the Central Committee of the party) your suspension from leadership.¹¹

The principal secretary in the office of the Prime Minister had written to the Ministry of Justice to demand an urgent review of Government Notice 134 in favour of the council. Five days later, the chief parliamentary draughtsman responded to the principal secretary's letter and explained that:

. . . The 1983 instruments were not intended to affect in any dramatic way the 1979 instrument which set up the boundaries of Moshi council, among other urban authorities. Such area of the former Moshi town council, as delineated in 1979, now forms

Moshi district council. The 1983 statutory instrument cannot be reasonably construed as disestablishing Moshi town council or establishing Moshi district council within the area of Moshi town council.¹²

The chief parliamentary draughtsman, however, rejected the idea of changing the government instrument in question. His rejection was based on the argument that:

... Although the suggestion that we draw up an instrument to make the situation beyond dispute by specifying the parts of certain villages as being within the township of Moshi is a good one, that is not advisable now that there are proceedings before a court of law regarding this same state of affairs. To do so would be to decide by legislation what is in the province of the court. Even if we were certain, which we are not, that the decision of the court will be against the interests of the government, we still would have a duty to ensure respect for the court. After the decision, then we would legislate.¹³

Hearing and Ruling of the Application for a Court Injunction

Meanwhile, the application for a court injunction came up for hearing after five postponements. The counsel for the applicants had submitted that:

... The three villages are registered village councils as well as incorporated village councils under the Village Act of 1975. ... All the land within the village council is under it. All the land which is not held under statutory title belongs to village council, which in turn disposes it out to the villagers for their use. Further, the village council is under an obligation to effect development for public use within its boundaries. The village council is also required to raise revenue for these public utilities.

The Moshi town council, by Government Notice 97/78, had its boundaries marked out or declared by the ministry responsible for urban affairs, then by the Prime Minister. The following year,

under Government Notice 117/79, the same Ministry revised the boundaries again and redefined the boundaries of Moshi Council. Government Notice number 117/79 incorporated parts of the areas which had been within Kikarara village, Msaranga village and Mdawi village.

It is under these powers that Moshi town council is seeking to extend its jurisdiction to the disputed parts of the villages. Government Notice 42 (of 1983) announced the intention of declaring villages which were incorporated into Moshi as being part of Moshi District Council, unless one had an objection to not declaring. There was no objection, so ... Government Notice 134 (of) 1983 declared the whole of the three villages to be in Moshi District Council. So the question is, which of the disputed part belong to the Moshi District Council or the Moshi town council. ... Land under statutory powers can only be taken away by an Act of Parliament or by the President through the Ministry of Lands Acquisition of Land Act 1967.

The three villages are not holding land under statutory powers, hence power for injunction until this matter is finally determined is substantive suit number 52 (of) 1984. If the injunction is not issued Moshi town council will extend its jurisdiction over Moshi district council's land without offering compensation ... if the injunction is not issued, their councils will have lost revenue arising from the aforementioned. On the balance of inconvenience, the Moshi town council will suffer nothing if the injunction is granted. Village residents have permanent houses, school, market buildings and other developments. Thus if the injunction is granted Moshi town council will interfere with these developments without paying compensation. Moshi town council has not even indicated a readiness to offer compensation vide council affidavit filed by the director.¹⁴

Counsel for the plaintiffs proceeded to submit that in 1938 a similar case was filed by Oxfordshire County Council against Oxford City Council. He held that the applicant was entitled to compensation for loss of revenue, etc. The lawyer for the respondent submitting this defence argued that:

... Government notice no. 97 (of) 1979 did not mark out boundaries as stated by the council for the applicant. By Act no. 11 (of)

1978, (the) Ministry for Local Government was empowered to establish urban councils to provide for the functions of councils. And under section 4 of the Act, (the) Minister may order and establish (the) boundaries of urban councils and municipal councils. By Government Notice 117 (of) 1979, Minister responsible declared (the) boundaries of Moshi town council. These boundaries, which were an extension of Moshi town council, took small portions at Kikarara, Mdawi and Msaranga villages. But before doing so a notice of 90 days was given to all persons affected to raise their objection within 90 days. No objection was received by the minister responsible. Hence, Moshi town council drew up the boundaries and a map to show the same as prepared (map left behind). By Act number 8 (of) 1982, section 13, the boundaries of Moshi town council were reaffirmed (former Act is no. 11 (of) 1978). Boundaries of district council established, vide Government Notice number 134 (of) 1983. The three villages declared to come under the jurisdiction of Moshi district council did not include the parts declared to be part of Moshi town council in 1979.

(Therefore) the question of annexation of the villages does not arise. Parts taken over by town council were turned into wards and elections were held in 1979 (January 1980). And since 1979, Moshi town council has been providing for the necessities such as the water supply. Moshi town council would have no need to raise objection in 1983, (while) the area in question was given to it in 1979. Question of compensation does not arise because change (was) essentially with regard to administration only. No question of demolition of schools, houses etc. (It) was unnecessary for the minister responsible to acquire the (land in) the extended boundary of Moshi town council before giving it to the council because the villages have got no title to the land, although they are registered villages. Injunction is unnecessary this time because the area in dispute has been under Moshi town council since 1979. To order injunction will be going against public policy.¹⁵

Replying to the long submission by the counsel for the defence, the plaintiffs' counsel said:

The map mentioned by the other counsel is not official in status[,] as it was not registered with the chief surveyor in Moshi.¹⁶

Then the counsel for the plaintiffs replied to the objection to the intention of the council to extend its boundaries in 1978. Regarding this, counsel claimed that:

Since Government Notice 97 (of) 1978 was passed and even before, ... there had been persistent objections. On 26 August 1973 (*Sunday News*), the objections of rural people were published. On 23 December 1977 (in a) meeting (between the rural people and the town council) chaired by the Regional Commissioner and (at which the prime minister was represented, objections were presented by rural people. At the 6 June 1978 meeting and the 11 November 1979 meeting, objections were registered.¹⁷

Finally, with regard to the question of land acquisition, counsel for the village councils argued that:

... the Minister for Local Government ... has no power to act as the (defendant) counsel suggests (that is) taking part of the land before acquiring it ...¹⁸

On the same day, counsel for Moshi Town Council wrote to the town director to inform him what had transpired at the hearing. In this letter, he also advised him to legitimize a map which showed the boundaries of Moshi Town Council to be the extended ones.

The above application, whose purpose was to restrain the council or its servants from administering the extended Moshi boundaries as given in Government Notice no. 117 of 1979, was today, 8 October 1984, heard and its ruling has been reserved to a later date. Meanwhile (,) I would urgently request you to register the new map of Moshi town council showing the new boundaries, with the Director of Land Surveying to legitimise the new boundaries. We shall keep you informed of new developments.¹⁹

This advice was quickly implemented, because afterwards Moshi Municipal Council ensured that the map was registered by the director of surveys in Dar es Salaam. Meanwhile, the following day, 20 October 1984, members of Msaranga political affairs committee convened after a year. The chairman of the committee, who was also the village chairman, notified the meeting that the failure to meet for all that time had

been due to the commotion caused by the surveying of plots in Msaranga. "Things were not good", remarked the chairman. Then he briefed the members of the committee on the progress of the suit in the High Court at Arusha and said that the lawyer had to be paid Tsh. 90,000, equivalent to US \$5,625. This amount, he said, would be contributed by the three villages, each paying Tsh. 30,000.²⁰

Four months after the village councils had filed their application for a temporary court injunction as described earlier, the ruling was passed. In reading the ruling of the application, the judge began by explaining that:

... Only portions of the three villages are the subject of the dispute in this application and the main suit. These parts were, by order of the minister responsible for matters connected with regional administration, made part of the extended Moshi Municipal Council, in 1979, vide Government Notice 117 (of) 79. ... It is not in dispute either that Moshi Municipal Council has been in control of and/or exercising jurisdiction over these portions of land since 1979. ... And in the circumstances of this case, it is proclaimed under ... that the court may by order grant a temporary injunction where the property in dispute is in danger of being wasted, damaged or alienated by the other party or suffer loss of value by reason of its continued use by that other party – in this case the respondent – Moshi Municipal Council.²¹

He then went on to state his position regarding the application as follows:

Having now studied the chamber application and the accompanying affidavit, and after hearing Messrs ... for the applicants and the respondent respectively[,], I am satisfied that the application is more of a prayer to divest the respondent of its purported right to administer the portion of land in question than to restrain it from doing or continuing to act in contravention of the provisions of the law under which the application has been brought. I am not satisfied that, and the applicants' affidavit is quiet, as to the said areas being in danger of being wasted, damaged or alienated, nor has it been suggested that the areas are bound to suffer loss of value if the order of injunction is not granted.²²

He therefore concluded that:

Divesting the respondent of its purported right to administer the disputed areas is, in my view, a matter for the main suit. And the inhabitants of the areas will be well advised not to resort to violence to resist the administration of Moshi Municipal Council. Until such time that the court declared that Government Notices nos. 142 (of) 1983 and 134 (of) 1983 divested the Municipal Council of its jurisdiction over the disputed portions, which the Municipal Council purport to have acquired by virtue of Government Notice no. 117 (of) 1979 (,) the respondent may properly refuse to relinquish its purported authority over the areas. In the circumstances of this case and on the basis of the foregoing there can be no question of the respondent interfering or trespassing on the portions of land. But the respondent may find it reasonable to desist, on its own initiative and for obvious reasons, allocating plots in those areas until finalization of the suit now pending in the High Court at Arusha. On the other hand the situation demands that the suit be heard as soon as possible ... With the above remarks I would refuse to grant the application with costs.²³

However, the fact that only parts of the villages were affected by the boundary extension, as argued by the judge, does not in any way make the decision lawful or less damaging to the affected residents. I shall return to this later. While the ruling of the application for a court injunction was not in favour of the residents, the ruling political party was contemplating a strategy to suppress the campaign by the residents to safeguard their rights and interests in land, as well as to oppose the undemocratic decision of matters which affected their lives. As we saw earlier, the impeachment of the Msaranga chairman, whose salary had been stopped, was the strategy thought appropriate.

Summary

This chapter has shown judicial hearings of conflicting interests in land use. Although the matter is framed around the 1978/1979 boundary extension, underlying the conflict are apparently the implications of the action for residents' customary land tenure rights and

use value interests in land, including its cultural meanings for them. Beneath these interests, however, is a concern for the exchange value of land, which is disregarded in official transactions of land or in cases of displacement. The residents' fears seem to have been quite genuine, given that they depended on land for their livelihoods. Thus, without alternative land suitable for agriculture, or full compensation which took into account the exchange value of the land, the anticipated change of use would have affected the residents adversely.

It is also apparent that despite the procedure in place which involved the allocation, free of charge, of plots to applicants, the residents were aware that plots were also being sold: "The [Council] has sent in surveyors to parcel out plots to allocate and sell to other persons...." That being the case, it seems that residents saw no justification for them releasing their land for free. Underlying their discontent is also the fact that before implementing the Msaranga layout plan, the council had not taken into account the residents' legitimate interests in land, including properties which would inevitably be affected by the process of readjusting individual property boundaries, as well as providing space for common facilities. As seen in the previous chapter, the planning officers had in part strategically avoided this question by proposing large plots to be allocated to the sitting occupants. However, given the way the layout plan was drawn up in disregard of individual property boundaries, compensation would be inevitable.

This case shows that the judiciary, the only hope left for the residents, besides taking time to rule over the application for a court injunction, did not restrain the council's administration and planning activities as the residents had anticipated. However, considering that the whole dispute hinges on trespass on individual land rights and fear among the residents of being deprived of the use and exchange value of their land, the caution to the council to refrain from allocating plots until the main suit had been determined must have been more important than anything else. This shows that although the court had no legal grounds for granting a temporary injunction, because there were no genuine technical reasons and because the residents' submission was insufficient to convince the judge, it appears that it was nonetheless aware of the source of the dispute: a struggle over land with regard to its use and exchange value.

Chapter 7

Suppression of Conflicts

The possession of power unavoidably spoils the free use of reason¹.

Immanuel Kant

Considering that the residents' campaign for their rights was championed by their chairman, the arm of the ruling party in the locality, how will the party react to the proceedings so far? Will the way this dispute is handled by the judiciary and responded to by the party restore the apparently eroded confidence and trust in the government or erode these even further? What are the implications for land use change in the area? This chapter shows the action taken by the ruling party against the Msaranga chairman. It also shows how the planners' interventions were beginning to be shaped by the confrontations with the residents. Moreover, as the 1985 general election brought in President Ali Hassan Mwinyi following the retirement of President Julius Nyerere, this chapter shows the initiative taken by the residents in bringing their dispute to the attention of the new president. At the end we shall rejoin the lawyers to see how they continued to interpret the law with regard to the main suit filed by the residents against the Council.

Impeachment of the Msaranga Chairman

Slightly more than a month later, on 12 December 1984, the central committee of the party in the region met. The venue of the meeting was Mandaka Teachers Training College, about 30 kilometres from Moshi Town. One of the items on the agenda was how to handle the organized resistance to Moshi municipal council's planning interventions in Msaranga village, among others. The chairman of Msaranga was summoned to the meeting to respond to charges of "indiscipline"

as alleged by the district party secretary in the letter written to the chairman, as seen earlier. In an interview with the author, the chairman said that when the agenda involving him was tabled, he was ordered to go out of the room to allow the rest of the members of the committee to discuss it. Later, he was called back in and ordered to answer charges against him that he had:

... instigated residents to protest against extension of boundaries of Moshi urban council ... organized secret meetings in connection with that instigation ... went to Dar es Salaam to see the Prime Minister to accuse the urban council of annexing Msaranga village in its area of jurisdiction by force ... filed a legal suit against Moshi urban council in the High Court at Arusha ... collected contributions from the villagers for the purposes of paying an advocate who is handling the suit.²

Recounting to the author how he replied to the charges against him, the chairman quoted Part 5 Sections 1 and 8 of the constitution of *Chama Cha Mapinduzi*, the ruling party, which provides for the peoples' involvement in decisions which affect them. He said that what people disliked was the manner in which town growth was guided in disregard of their rights and interests. He continued:

... if it is a State Order that Msaranga should be annexed to Moshi town, the residents should be compensated. ... Msaranga residents know very well that every country in the world has towns; these towns start small as Moshi did; however, their growth is inevitable. It is comparable to putting water in a basin: if you dip in a stone, the volume of water will increase and take up more space. ... [with respect to towns], there must be procedures to guide the growth. Expansion should not be done haphazardly, disregarding the rights of those who are found living where town growth must take place ... After saying these words, I heard some voices murmuring "It is only you; [other] residents have accepted". These were the same words I got from the district party officials [when he met them].³

The Msaranga chairman denied the charges of instigation. He claimed that what he did was to present the residents' opinion and interests, and required the leaders to explain the need for the boundary

extension to them and how their interests would be accommodated in the process, a leadership responsibility which was avoided by the district leaders. In regard to the meetings, he claimed that they were all public and held on Sundays after church, and that their minutes were distributed to the relevant offices. After all, the meetings were announced in the church. However, the chairman accepted having gone to the office of the Prime Minister and taken the council to court, because that is what his people required him to do after the political-administrative system had failed to help them reach a solution to their problems. Regarding the collection of contributions from the residents, he claimed that this was not the first time that villagers had contributed to their development. Earlier, they had contributed to building primary schools, a dispensary, a community centre which accommodated a nursery school and a shop for a women's group, the improvement of roads, and various contributions required by the ruling party, *Chama Cha Mapinduzi*. He then concluded by asking:

... Is it sinful to contribute towards paying for an advocate to represent us in the High Court at Arusha for something which we could not do on our own, [and] having no knowledge of the law? Why were all those other contributions not disputable and only this? ... Having said that, I was ordered to go out for a second time. Then I was called in and told by the deputy district party secretary that I had been suspended from leadership. I was thereafter taken to Moshi Town (Msaranga) in a vehicle belonging to *Chama Cha Mapinduzi* ...⁴

That same day, the chairman of Msaranga wrote to the national party chairman to complain about this action, which he regarded as intimidation. He furnished the national chairman with the charges raised against him and his reply to them. At the end of the year, the decision to terminate the services of Msaranga chairman was communicated to him in writing by the district party secretary:

I am informing you that the regional [party] central committee, at its meeting of 12 December 1984, discussed at length your objection to the boundaries of Moshi Town as decided by the Government in 1979. Consequent to that behaviour, the Central Committee deems that you are deficient in the leadership qualities pursuant to the constitution of *Chama Cha Mapinduzi*, Section 18.

You are therefore, effective 17 December 1984, suspended from leadership until further notice to you.⁵

The chairman's impeachment uncoupled the residents from the council, because some of the residents who were interviewed confirmed:

... from that time on, there was hardly any resident willing to attend any meeting. Having removed our chairman, we could not understand who else could convene a meeting.⁶

The removal of the chairman was a blessing to the council, because immediately afterwards the survey of plots was resumed. This time, however, the strategy was to use the local leaders to facilitate implementation of the exercise, indicating that despite the suspension of the Msaranga chairman, the residents' struggle was beginning to reshape planning practice.

A New Strategy to Facilitate Stalled Plots Survey

On 8 January 1985, the urban planning committee held its first regular meeting for that year. The council planning officer reported that

... survey of plots in Kiboriloni and Msaranga will soon resume, after being suspended for a long time following protests from some of the residents. Efforts have been made by the leaders of the party and government to enlighten the residents about this exercise ...⁷

The council had realized the need to obtain support from the local leaders in the area, but was still not sure of the residents' response. The strategy was thus to transfer the responsibility for safeguarding the survey beacons to the residents in the respective zones. This was disclosed by the planning officer at the same urban planning committee meeting.

Help from the local leaders in the area will be needed as well as from the police in case of commotion from the residents ... the area will be subdivided into zones and the survey will proceed accordingly. Before the survey is done, all the residents of

a particular zone will be registered. This may help because they will be responsible for the beacons to be installed.⁸

Presenting this strategy, the planning officer informed the urban planning committee that the survey exercise would be carried out by surveyors from the Ardhi Institute, Morogoro Branch, while the registration exercise would be the responsibility of the ward secretaries in collaboration with the members of the urban planning department. The members of the urban planning committee would be responsible for persuading landowners to cooperate so as to ensure the success of the survey exercise. The urban planning committee accepted the strategy and resolved the following:

- (a) The survey exercise may commence following the process outlined.
- (b) The urban planning committee should meet with and mobilize the residents of each zone.
- (c) Priority in the allocation of plots should be given to residents, and compensation should be avoided as much as possible during the survey.⁹

The survey exercise resumed, and following resolution (c), it appears that plots would be allocated to other developers as well. This would be contrary to what the residents had been promised in the earlier chapter; that council had no intention of appropriating their land and allocate to others. To ensure security of the surveyors, they were guarded by armed soldiers throughout the exercise. Under such conditions, people had nothing much to do except to yield reluctantly to this exercise of naked power. However, the moment the surveyors left the site, people exercised the power available to them by uprooting the survey beacons put on their lands.

Banned from Leadership for 60 Months

Eight months after the chairman of Msaranga had been suspended from leadership, the secretary for the disciplinary committee of the central committee of the party at national level wrote to inform him that:

I have been instructed to inform you that ... the Central Committee has decided to terminate your leadership effective

14 August 1985, after being satisfied that you have violated the party ethics/ideals as follows: (a) To object a directive from the President of the United Republic of Tanzania on the boundaries established by him, contrary to section ... of the CCM constitution (1984). (b) To mobilise financial contributions from the residents to facilitate them in objecting to decisions on the (boundary) decision made by the party, contrary to section ... of the CCM constitution (1984).... These actions show insincerity, contrary to section ... of the CCM constitution (1984) According to Section ... you will be under that punishment for a period of not less than 60 months If you have any other leadership position which you got through the CCM constitution ... you are also removed from that within that period following this decision by the Central Committee It is also up to you to ensure that within that period you don't repeat such an offence again ... otherwise more severe measures will be taken against you.¹⁰

By this time, the residents had suffered two major blows, first from the judiciary, after the failure to obtain a court injunction to stop the council's intervention; and now the highest political office, which was apparently also the highest executive arm of the state, did not seem to address their case as they had expected. However, the judiciary, where the main suit had been lying for a year could deliver what the residents expected. After the decision on their application for a temporary court injunction in December 1984, the main suit had already been heard four times, but for various reasons no progress had been made. One of the reasons was that the judge presiding in the case during the first hearing knew a lot of the people involved in it. On 16 February, the case came up again but was adjourned till 7 May 1985, to allow counsel for the defence to complete the filing of defence statements from witnesses. Two months before the scheduled hearing date, the council planning officer provided his statement of defence as the principal officer of the defendant. He stated that:

... the contents of paragraph 1 of the complaint are not in dispute As regards the contents of paragraph 2 of the complaint, the defendant avers that the plaintiff is not in law authorized to sue on behalf of the individual villagers with the three villagers ... [the defendant] denies the values of the properties stated in paragraph 2 of the complaint alleged to be owned by the three village

councils ... [the defendant] denies that it has dislocated, displaced or even attempted to remove the plaintiffs or their inhabitants from their current positions or at all ... admits ... that the defendant took over the administration of the areas ceded to it as per Government Notice 117 of 1979 and registered under plan no. 20529. The defendant will produce the said plan at the hearing of this suit. ... The rest of the allegations in paragraph 4 are denied *in toto*. ... The damages claimed in paragraph 5 of the complaint are speculative and are denied *in toto*. ... The defendant denies the contents of paragraph 6 of the complaint. ... the plaintiffs have no legally sustainable claim and are therefore not entitled to compensation or any other claim ...¹¹

The scheduled hearing on 25 May 1985 was postponed for 2 weeks because the counsel for the plaintiff was absent. Two weeks later the case was again postponed for about 5 months to 8 October 1985. Meanwhile, the land surveyors who had resumed surveying in Msaranga had completed preparing a survey plan based on the survey of 400 plots instead of the anticipated 529 plots. The plan was submitted to the surveyor in-charge in Kilimanjaro region for checking, which he did, and signed it on 28 May 1985, before forwarding it to the director of surveys and mapping in Dar es Salaam for approval. Having completed their task as agreed, on 2 December 1985 the surveyors raised their last invoice for payment of the remaining 40 per cent of the contract sum, which was Tshs. 301,800, equivalent to US \$18,863 at that time, for surveying 529 plots.

Although the residents were still protesting against the whole exercise of being incorporated into the town and to the plot survey on their *vihamba* to the extent that their chairman had been fired from a leadership position, the Member of Parliament for Moshi rural district had decided to join the rest of the politicians. He demonstrated this by writing to the Council's land officer asking to be allocated the plots which derived from his piece of land, which had been subdivided into plots and surveyed. In a letter under the heading "My plots on a farm which I have been owning at Msaranga since 1957", the Member of Parliament wrote:

I am requesting the following names of my children to be written against the plots arising from your map (layout plan) on my two acres of land located at Kiboriloni/Msaranga along the

Moshi–Himo road. As seen from the sketch below, the allottees should include me and two of my children who are currently employed. If there will be an extra plot, I request you to allocate it to my young child¹²

A month later, a scheduled hearing of the Msaranga case was adjourned because the counsel for the plaintiff was sick.¹³ Meanwhile, Moshi Urban Council had recruited two more planners, one of them being the new head of the planning department. This new head of planning, concerned about the building of houses in disregard of the survey plan, wrote to ward secretaries in Msaranga and Kiboriloni.

... The survey of plots in the areas mentioned (Msaranga and Kiboriloni) has been completed, but some residents are building haphazardly. If this is allowed to continue, the survey done will be useless and hence a big loss to the council. Moreover, the goal of achieving planned development will have been defeated In order to overcome this situation, we ask you to assemble urgently all the ten cell leaders in the area surveyed. The meeting will enable us to get appropriate strategies and collaborate with our experts, show the landowners plots and legally offer them plots.¹⁴

The proposed meeting did not take place, for reasons revealed by the planning officer later in the story. Eight months since the last mention of the Msaranga case, the case was again adjourned following a request from the counsel for the plaintiff, who was absent because he was involved in an election petition.¹⁵ About a month later, the council planning officer wrote again to the Msaranga ward secretary to explain why he did not attend the earlier meetings he had suggested. The first meeting was supposed to take place at the end of 1985. In the same letter, the planning officer requested another meeting with the residents.

The meetings did not take place for reasons beyond our control. One of these reasons was that the planners were absent from office because they had travelled to Kahe. In regard to the second meeting, there was no transport, moreover, it rained heavily that day.... We apologise to the local leaders and resident of Msaranga ... We request you to prepare the residents for another meeting (at a later date) and inform us once you are ready ...¹⁶

No meeting was arranged and therefore held. The attempt to manage growth in Msaranga by allocating plots and assuring development according to the layout plan ground to a halt. So far, 400 plots had been demarcated by hired surveyors. However, as earlier confirmed by one of the surveyors involved in the exercise, the survey existed only on paper, because survey beacons were uprooted by the landowners as soon as they were put in place. Attempts by the council planning officer to ensure that development took place according to the plan had not materialized. While the planners were at odds over what to do, it seems that the residents were optimistic about the changes to the top leadership in the country. They thought if change occurred it could bring a new perspective to their unresolved dispute.

Help Is Sought from the President

The 1985 general election brought in President Ali Hassan Mwinyi in place of Julius Nyerere. The residents realized that although it was the same office to which they had written their previous letters, this change of personality could mean a lot in terms of resolving their dispute. Therefore, at the beginning of 1987, two residents wrote on behalf of the people of Msaranga to the President of the United Republic of Tanzania. They requested him to intervene in their dispute.

... We were allocated this land – *vihamba* by the chief (Salema) of that time. This area was a wild bush with big snakes and fierce wild animals. Gradually we developed it, including establishing irrigation canals from river Rau and Msaranga for irrigation during the dry season. [At that time] we got sufficient food throughout the year. Many tricks have been used against us and finally they [the district authority] publicly announced that, “whether we like it or not, we must be incorporated in the town, and those unwilling will be shifted to Morogoro”. It should be clear that there are some quite old residents, who cannot move. The first trick used against us was to promise us that Msaranga will be a village in town where we would continue to live (a rural way of life) as we used to do. It is because of this trick that we agreed to participate in the 1980 [local government] election. The second trick entailed making us accept the parceling of our *vihamba* into plots according to our number of children and thereafter paying

land rent, as it is done in town. And that, for those unable to pay the rent, their plots would be acquired and reallocated to those who could afford it. It was clear that many landowners would be unable to pay the rent, the result being that their land would be acquired.¹⁷

Exactly 10 months later, that is on 3 October 1987, the Residents' Committee wrote another letter to the President. In their letter, they explained how the decision to extend the boundaries of Moshi Town was made without involving them and how such undemocratic action contravened the constitutions of the party and that of the United Republic of Tanzania. Since the two constitutions were inspired by the ultimate goal of safeguarding basic human rights, the villagers argued that their exclusion from a decision which so affected their lives logically contravened basic human rights cherished by all civilized nation states.

Party and government leaders who decided to extend the town's boundaries did not consider the problems and negative effects of that decision for the residents. Also they did not involve the villagers in that process ... as required by our party constitution (1977) and (1984) section 5 (8). This section of the constitution states clearly that "Every citizen has the right to fully participate in reaching decisions affecting the nation and his/her own life, and has the liberty to contribute their own opinion." This provision was not respected ... despite the fact that the issue of land is sensitive and touches upon peoples' lives. Such a move contradicts basic human rights recognized by all nation states except Boers and Jews and the constitution of our party and that of the United Republic of Tanzania, Section 24 (i), (ii), and the customary land law of 1973, section 13. Our rights are safeguarded by all these laws, but party and government have closed their eyes to them. [Under the circumstances], whom should we disadvantaged [residents] cry to?¹⁸

They recalled many promises given to them by the party and government authorities:

In 1979, we were told by the party and government leaders that our village would be incorporated into the town but would not be surveyed. Villagers would continue to live (a rural type of life)

as they did before, and to continue farming in order to produce food for urban residents. This area would be a GREEN BELT. In 1983, party and government leaders from the town called a meeting in the village and said that *the village [land] will be surveyed into plots ... those with vihamba will be allocated plots/plot for which a land rent applicable in town would be charged, in addition to the development levy. Plots for those unable to pay will be acquired and reallocated to others ... The earlier promise that this area would be left as a green belt was changed ...* [author's emphasis].¹⁹

The residents went on to enumerate the investments they had made in the area, having lived there together with their parents and grandparents for more than 80 years. They also pointed out what they anticipated to be the outcomes.

... There are in this village permanent houses, crops such as bananas and coffee, various fruit trees, trees for timber ... irrigation canals ... established by our grandfathers, a piped water system, which was built from residents' contributions ... primary schools, dispensary, ... [there were also the] graves of our grandfathers, fathers, children and grandchildren.... [therefore] to start afresh in a new area without shade, basic services such as water, schools, dispensary, transport, etc. will negatively affect our lives ... Most residents, especially the old ones, will die before their time, ... youths who are now participating in farming activities will be rendered destitutes....²⁰

Having said all these, the villagers suggested to the President how the matter could be resolved to ensure that town growth was neither detrimental to their interests nor to any public interests. They suggested distributive urbanization be encouraged as an alternative to the concentrated growth anticipated in Moshi Town. They argued as follows:

... because our village is a permanent one and has many inhabitants, the development attained [so far] has been very costly to the villagers ... shifting the villagers will cause much inconvenience on the side of the villagers, while millions in money will have to be paid by the government as compensation, and because our region has a great shortage of land, such that the party

and government has advised the residents of this region who have no land to move to other regions where land is (said to be) in abundance, we request you to direct the party and government [in the region] to advise all those in need of building plots in Moshi Town ... to look for plots in other nearby towns, for instance in the new district of Hai, Mwanga, Same If this option is not feasible, you may issue special permission for us to be allocated alternative land within the region, on the nationalized farms, most of which have changed into bush. Being allocated alternative land within the region will enable us to continue living in an environment familiar to us. ... The alternative land should, however, be in addition to compensation for [our] houses, permanent crops/plants, schools ... and costs for inconvenience ... [and] moving graves ...²¹

The residents received no response to both the letters.

Hearing of the Main Legal Suit Against the Council

On 2 February 1988, four years after the main suit of Msaranga, Civil Case No. 52/84 was filed and came up for hearing for the first time. The hearing was presided over by a High Court judge, who rejected the court injunction. In this hearing, counsel for the defence raised a preliminary point of order, that the suit is not properly before the court and therefore should be struck out with costs. The counsel argued that:

Basically they [the 3 villages] oppose the action of Moshi municipal council to extend its boundaries to parts of their areas. But going to paragraph 2 of the plaint[,] the pleas are referring to individual plots vihambas of the inhabitants of the same councils. It also says that the vihambas, which are of various sizes, and properties like houses, coffee trees, ... are each owned by individuals. Under the Local Government (District Authorities) Act no. 7 (of) 1982[,] village councils being legal entities may only act in connection with the property registered in their names. ... Getting by the contents of paragraph two of the plaint[,] there is no property which is alleged to have been registered in the name of either of these village councils. Since the properties alleged in paragraph 2 are owned by separate individuals within the village councils[,] the village councils have no right to file a

suit unless the villages have been authorized by each of the individuals in the respective villages. I believe power of attorney is required[,] authorizing the counsel to file the suit on behalf of the individuals. Furthermore, leave of this court will be required ... in the absence of leave and power of attorney we submit that this suit is not properly before this court and therefore should be struck out with costs.²²

Responding to the submission of defending counsel, the counsel for the plaintiffs conceded that the counsel for the defence might be right in theoretical terms. However, he drew the attention of the court to the practical nature of the situation in Tanzania and to the act which had established the villages and their village governments, which he argued should be interpreted as follows:

Village Councils are there as representatives of inhabitants in those villages. By implication the powers to sue on behalf of individuals in a village as provided ... is already given in the law that it has powers to bring representative suit. And by implication leave is already there. Vide section 142 of Act no. 7 (of) 1982[,] the naming of the village is inimical to the economic and social development of the village. It is further economical to the interests of the village councils to do anything to develop the village.... So long as the village government has been created it can sue and be sued in the same manner as an ordinary person. An individual can sue as a guardian[,] as a trustee beneficiary etc.... why can't a village council sue as a guardian in paragraph 2 – 1 Village Council sues as a guardian of village members under its boundaries. I therefore submit that the suit is properly before the court and the suit should proceed as filed.²³

The ruling on this preliminary point was fixed to take place a month later, after the judge had interpreted the law. Four weeks later a ruling on the point was passed by the High Court judge as follows:

After hearing ... [counsel for the defendant] on a preliminary point ... I tend to think that since the village councils are by law there as representatives of the inhabitants of the respective villages, the said village council could properly file a representative suit without necessarily obtaining the leave of the court The preliminary point is overruled.²⁴

While waiting for the next step in their legal suit against the council, the Msaranga Residents' Committee wrote to the minister for local government in connection with Government Notice No. 211 of July 1988. By this notice, Moshi Town, whose boundaries remained as defined by Government Notice No. 117 of 1979, was given municipality status.²⁵ To the residents of Msaranga, this event suggested that their outcry, represented in so many communications with the party and government authorities, had remained "a voice in the wilderness". Knowing that the minister was new to the ministry, the committee did not lose this opportunity to try to influence him by enlightening him about the contradictory Government Notices and their interpretation of these pieces of legislation:

- (i) Government Notice no. 97 of 1978 was repealed according to Acts and supplement no. 2 of March 23, 1982 part VIII, Final Provision paragraph 110 a, b, c and paragraph III (a) when local government were reintroduced. The fact that notice has been repealed also nullified the boundary which affected our village.
- (ii) Supplement no. 32 Government Notice no. 134 of 2 September 1983 shows clearly that our village is within Old Moshi West in Moshi rural district
- (iii) Our village was registered and given certificate no. 103 of 1975 ... since then its registration has not been repealed ... if this has been done, then the procedure for doing so was not followed as provided for in the land Govt. Act 52 Vol. 67 of 20 January 1986.²⁶

The committee emphasized that the land dispute between their village and the council had taken long time without there being any clear cut solution. Despite the various letters written to the President of the United Republic of Tanzania, the national party chairman, the Prime Minister, the minister for local government, and the minister for lands, housing and urban development, no lasting solution had as yet been reached. Finally, the committee reiterated the residents' position that they did not want to be incorporated into the town because their livelihoods depended on farming and keeping livestock, activities which to their knowledge were not allowed in town.²⁷

Towards the end of 1988, the national chairman of the ruling party *Chama Cha Mapinduzi* responded to complaints raised by the residents of Msaranga. The chairman suggested that "The source of this problem was not Government Notice 117 of 1979, but the process of urban

expansion.” He subsequently suggested that, “Areas incorporated into the town should be provided with urban services, but should be maintained as a green belt, where residents may continue farming until the areas were required (for urban development).”²⁸ The idea of a green belt was neither new to the residents nor acceptable to them, because as we saw earlier, they regarded it as one of the council’s tricks in trying to deprive them of their land. That idea had first been introduced to them 10 years earlier, in 1979, when the party and government officials went around persuading the villagers to accept the decision to incorporate them into the town. Five years later, however, in 1983/1984, the residents witnessed this idea of a green belt being put aside by the same authorities, who instead forcibly parcelled their land, the same green belt, into residential plots. Based on that experience, the Residents’ Committee wrote back to the national chairman of the party to challenge his suggestion as follows:

In town, property owners pay land rent, property tax and development levy [poll tax]. In villages, villagers pay development levy and may be livestock tax. . . . What land rent should be paid in the green belt area? There is no law which stipulates or protects the rights of residents in a green belt area . . . any moment that area may be required [for urban development] and thus make villagers move and reestablish themselves somewhere else, something which under the present difficult [economic] conditions will cause disturbances, particularly to the aged residents.

. . . Lastly, it is true that towns grow, but they do not grow like mushrooms, they do so following [people’s] decisions and within the framework of [existing] laws . . . Decisions are made by taking into account the local environmental situation [author’s emphasis]. In our case, expansion of the town has been directed to where there is a permanent village (over eighty years).²⁹

Adding Salt to a Wound: Valuation for Property Tax

One month later, the municipal valuer circulated a letter to all ten cell leaders in the unplanned settlements. The message in this letter was a notification to the ten cell leaders of a house registration exercise which would soon be carried out by the council to establish the values

of properties so as to enable the council to institute and charge a property tax. In the letter, the valuer specified that:

... All buildings in these areas will be assigned a registration number, and the name of the property owner will be listed in a register. Valuers will measure the buildings ... so that they can estimate their value. All buildings will be listed in a valuation roll for taxation purposes as per the Urban Authorities (Rating) Act 1983. As per the "Town and Country Planning Ordinance Chapter 378 of the law, and the Township rules, Chapter 101" of the law, all buildings which are not registered shall be considered built after this registration without the permission of this municipality, and therefore will be subject to demolition without compensation. Objection to this registration will be in contravention of the laws indicated above.³⁰

The valuers' message was like 'adding salt to the wound' It was received by the residents with anger because it once again confirmed to them that their attempts to resist incorporation into the town had had no effect in changing the thinking of the council. The proposed property tax was among the charges they had been avoiding by struggling against incorporation into the town. Once again, the residents wrote to the national party chairman to remind him of their previous letters. They also informed him of the proposed property valuation exercise aimed at charging them property tax, which they thought a majority of the residents would hardly be able to afford. Copies of the letter were sent to, among others, the President of the United Republic of Tanzania, the Minister of Local Government and the High Court at Arusha.³¹ Two months later, the letter was received in the President's Office. The secretary to the President wrote a letter to the regional commissioner to inform him that:

... After reading their [the residents'] description, we think their complaints can be resolved at the regional level. If this is not possible, the office of the Prime Minister might be involved.³²

A copy of the letter was sent to the residents to show them that the issue was being addressed. On receiving it, a group of 30 residents

went to see the regional commissioner. Telling the author what transpired at that meeting, one of the participants said:

When we went there, we were about thirty people, but only ten were allowed to go into the office [Others present were] the town director, Mr ..., security officer, local government representative [in the region], *mama* ..., Regional Development Director, and the land officer. We briefed him [the Regional Commissioner] on everything about the issue, including the steps already taken and how human rights were being violated contrary to section 24 of the constitution. Having heard our briefing, the Regional Commissioner nodded and said, "Even if I were me, I would have not accepted." He then went on to say, "The President has directed me to intervene in this issue, but unless you withdraw it from the court, I have no power to intervene. In order for me to be able to intervene, therefore, I would ask you to withdraw the case from the court." We then asked him, Suppose we withdraw it and eventually disagree [with you], who shall be our host? – meaning that we would not be able to go back to the court. It is like moving an inpatient from a hospital and taking him or her to a traditional doctor. If the traditional doctor fails to attend to the patient, can you easily go back to the hospital? We finally agreed with him to leave the matter as it is [the case to remain in the court].³³

Following that meeting, the regional commissioner wrote to the High Court at Arusha, requesting it to give priority to the case so that it was decided as soon as possible. He observed that:

... After realizing that the suit regarding this issue [of the boundary extension] is still lying in the court, it has not been possible to resolve the complaints outside the court. The delay in determining the case has affected development, services [provision] etc.... and also (created) administrative and political inconvenience, as is evident in the complaints registered by residents.... We request the court to give the necessary priority to this case and determine it as soon as possible.³⁴

Two months later, counsel for the defence informed the municipal director that the suit would come up for hearing on 8 December 1989 at the High Court. Unfortunately, the court record was shut in the district

registrar's office while he himself was away. Under the circumstances, the case could not be heard, and no new date was fixed for the hearing.³⁵ A month later, the suit was heard and adjourned to 9 March 1990.³⁶ When the day came, the case was again adjourned to the end of month because the new counsel for the defence needed time to consider the ruling of the preliminary point given 2 years ago, that the village council could sue on behalf of the villagers.³⁷ A month later, the case came for hearing, but the defence counsel requested another hearing date. The court fixed the hearing date for 3 months later.

Quest for Survey Permission

Given the long time the case had been before the court, some landowners were gradually becoming impatient and beginning to despair. Their insecurity of tenure mounted as time passed, because they were not sure when the council might intervene again. One fact was actually working in favour of the landowners, namely that the council, like all others in the country, did not have the financial means to survey plots. To address this problem, the government allowed individual landowners to engage private surveyors to survey their respective lands. In response to this, some landowners who could afford the cost of a private surveyor began to apply for survey permission to survey their land. Acting in response to applications which were submitted to the planners for survey permits, the regional town planning officer wrote to the director of urban development in connection with a landowner who had been trying to survey his plot of land since 1980, but had failed because a detailed plan for Msaranga had not been prepared. The landowner needed a permit to survey his 2.5 acres of land located in Kiboriloni/Msaranga, so that he could obtain a certificate of occupancy, which he needed as collateral for a bank loan.

We have received an application (for a survey permit) from Mr ..., who owns a piece of land under the customary land-tenure system. The purpose of the survey is to enable him to obtain a certificate of occupancy which he wishes to use as collateral for a bank loan. The project he wishes to establish has already been approved by the bank, but the loan cannot be disbursed before surrendering a certificate of occupancy... The piece of land in question is located in Kiboriloni–Msaranga area. A layout plan

for this area was prepared in 1982 by the council town planner, but a survey of plots did not take place for unknown reasons. . . . At the moment the area is full of haphazardly built permanent buildings (squatters) . . . this area has no base map showing existing developments, and aerial photographs taken between 1984 and 1987 are useless, because a lot of development has taken place since . . .³⁸

The planning officer is not telling the truth, because, as we saw earlier, although the survey was carried out, the survey marks were uprooted by the landowners. Upon receiving this request, and being convinced by what the town planning officer in the region was writing, the director of urban development came to the opinion that another plan should be produced as quickly as possible, so as to facilitate the survey. In his note written on that same letter, the director instructed one of the planning officers in his directorate to write to the regional town planning officer to prepare what he called an “upgrading plan”, which would then be approved, and on the basis of which a survey permit could be issued by the director of surveys and mapping.

I think the 1984 aerial photograph [six years old] is OK. Machine plots for that area should be prepared, on the basis of which upgrading plans should be prepared immediately.³⁹

Before writing to the regional town planning officer as directed, the planning officer in the ministry mounted unsuccessful search for the said 1982 plan for Msaranga in the mapping archive of the department. Normally, after approval of any plan, the originals of the approved plan would be retained in the ministry for record purposes. However, as the plan for Msaranga was not approved by the director of urban development, it was unlikely that the planning officer would have succeeded in locating anything like the Msaranga layout plan. Although there was no record of that layout in the urban development directorate, a record of a survey plan for the same area existed in the directorate of surveys and mapping. Having failed to locate the plan, the planning officer wrote to the regional town planning officer to inform him that:

. . . This office has been unable to approve your request because we have failed to get the drawing [layout plan] of the area and also because your drawing was neither numbered nor signed by

you. Please inform us which layout plan are you referring to and when was it drawn and approved, so that we can approve your request.⁴⁰

The regional town planning officer wrote back, responding to the trivial issues and leaving the big question unanswered; the status of the Msaranga plan. The regional town planning officer told the director that the drawing was not formatted for signature and not numbered because it was not an extract from an approved plan, but simply a locational map. It could not be an extract from the 1982 plan, because the planning officer was aware that had it not been approved by the director of urban planning himself, there would be no reference copy of it in the ministry. However, even if it was approved, it would have been an obsolete tool for guiding the survey for two major reasons: first, as already mentioned in the previous chapter, the plot subdivision plan disregarded individual property boundaries; and secondly, a lot of development had taken place since, contrary to the plan.

No upgrading plan was prepared for the area as had been instructed by the director. This was blocking all those who needed to survey their land, because in 1989 the directorate of urban development had issued an instruction that survey would only be permitted on the basis of an approved layout plan. In 1994, however, prompted by the need to approve a private survey for a resident in the same area, the directorate of surveys and mapping cancelled the 1985 survey, thus paving the way for all those landowners who required a survey in the area.

Departure of the Plaintiffs' Counsel

In July 1990, the High Court met in absentia of the parties and counsels involved in the Msaranga case.⁴¹ The court observed that although the case was supposed to come up for hearing 2 days later, it was not included in that week's case list, probably because the honourable judge had not seen the case file. It was therefore rescheduled for a month later.⁴² On 18 August 1990, when the case was supposed to be heard, counsel for the plaintiffs was absent. Subsequently, the court ordered a hearing for 2 weeks later. The case came up again on the first day of September. The counsel for the defence reported that pleadings were ready and a hearing date would be proper. The court ordered a hearing in 3½ months time.⁴³

A month later, on 14 December 1990, the hearing of the Msaranga case began as scheduled. The counsel for the plaintiffs, who had been conducting the matter for the past 7 years, applied to withdraw from representing the plaintiff villages because he had been appointed a member of the Electoral Commission, a responsibility which placed him in a conflict of interest, as he further explained that:

... The substance of the matter before this court is whether those named villages are part of Moshi Municipal Council or not, which is basically the same as the issue before the Electoral Commission Panel. For this reason, I have decided to withdraw from this case so that I may serve and effectively take part in deciding the same issue before the Electoral Panel. I have consulted with my clients and they have understood the dilemma in which I am placed. They have decided to engage ... [name mentioned].⁴⁴

Being given this reason, the court agreed to discharge counsel for the plaintiffs from representing the 3 villages and from his application for the adjournment of the case for hearing the next day, when the learned advocate engaged by the plaintiffs could arrange with the court the date for taking over the representation of the plaintiffs.⁴⁵ The case was heard again the next day, and counsels for both the parties agreed to a hearing date of 14 March 1991.⁴⁶

On 16 January 1991, another owner in Msaranga wished to have his plot surveyed. He had unconfirmed information that a survey of the area had already been carried out, but had not yet been approved. He therefore decided to write directly to the director of surveys and mapping to enquire about this and also to request a survey permit for his piece of land.

... [Msaranga] is among the areas within Moshi municipality which either have been surveyed but that survey has not been approved by you, or have not been surveyed. We residents of that area have built permanent houses Others are struggling to commence construction Our main problem is to get a certificate of occupancy so that we can get loans from public financial institutions for our own development ... the rumour I have is that the area has been surveyed, but it is not known how far that process of survey has reached. Under the circumstances, I request a survey permit from you to survey my piece of land.

I can contribute to the costs of that survey If the area is already surveyed as rumoured, then help us to get the relevant survey plan I have no doubt that you will accord the necessary weight to this issue, which will eventually contribute to stopping haphazard building in our fast-growing town.⁴⁷

On 16 January, the court was again in session for the scheduled hearing, but the new counsel for the plaintiffs was absent. Counsel for the defence petitioned for another hearing date and notice to be issued to the plaintiffs. The hearing was fixed for the end of August, 5½ months later.⁴⁸

Summary

We have seen how the ruling party, annoyed by the residents' action in resisting the survey and in taking legal measures against the council, reacted repressively against the residents' legitimate claims. The impeachment of the chairman of Msaranga seems to have been a strategy designed to scare the residents so that the plots survey could continue. This is because immediately afterwards, the survey of plots in Msaranga resumed under the protection of armed police. Despite this, the Msaranga residents did not give up. Rather, they continued the struggle to defend their rights and interests in land, this time, using naked power by uprooting survey beacons once the heavily guarded surveyors had left the site. Subsequently, by the end of the survey, and having spent public money on the exercise, the council could not allocate the plots and regulate land-use change in the area as anticipated.

We have also seen that since the Msaranga chairman could not make his people obey party and government decisions, he was banned from leadership for 5 years. We will rejoin this confident and courageous chairman and his community in their law suit against the council. Meanwhile, it is instructive to indicate at this juncture that having being denied a temporary injunction, pending determination of their main legal suit, the council retained its jurisdiction over Msaranga, but could not allocate plots. To confirm its administration, we have seen that the municipal valuer had notified the residents about a property-rating exercise to be carried out in the area to enable the council to charge property tax. This, in the reaction of the

residents, was like rubbing salt in the wound, and prompted more complaints and objections from the residents. Subsequently, this exercise could not be carried out in Msaranga or the rest of the unregulated urban fringe areas, and thus no property tax was collected from property owners.

We have finally seen that Msaranga residents were becoming really impatient, having followed up the case for the past 6 years without seeing results. While the judiciary was sitting on the matter, the residents were contemplating turning back to the political-administrative system, because they thought that a newly appointed minister for home affairs, who was also a Member of Parliament for Moshi rural district, might help them. Would the residents take the matter to the minister, and would their expectation provide a solution for them? We shall return to this later. Meanwhile, we shall follow the planners to examine their next move after Msaranga.

Council Retreats to the Lawful Planning Area

Although the ruling on the application for the court injunction did not restrain the council from regulating land-use change in the disputed areas, the residents' action so far seems to have had an impact. After the abortive planning attempt in Msaranga and Kikarara, the planners retreated to the 1973 boundary, where they remained until they were invited by the residents of Longuo as shall be seen in the next chapter. In the present chapter we shall follow the planners' attempt to regulate land-use change in Mji Mpya and Majengo-Miembeni unplanned areas. In this instance, the planners were to change their planning approach, showing that the Msaranga experience had given them a slight realization of certain deficiencies in their planning approach. However, as what they had learnt does not address what seems to have been the real issue underlying the conflicts with the residents, the planning intervention not only failed but triggered informal land subdivision, selling, and building.

Attempt to Regularize Mji Mpya and Majengo Miembeni Settlements

Majengo-Miembeni and Mji Mpya settlements were outside the town boundary until 1973, when they were annexed to Moshi Town. At that time, although there were scattered houses, agriculture was the main land use. The landowners in this area held land under customary tenure, having been allocated it by the Chief of Uru at that time. Despite its proximity to the town, the land remained basically agricultural until the 1970s, when a rapid development in housing began to take place. Like the other areas designated for residential development in the 1968 Interim General Plan, a layout plan for the redevelopment of the area had in 1971 been prepared by planners in the

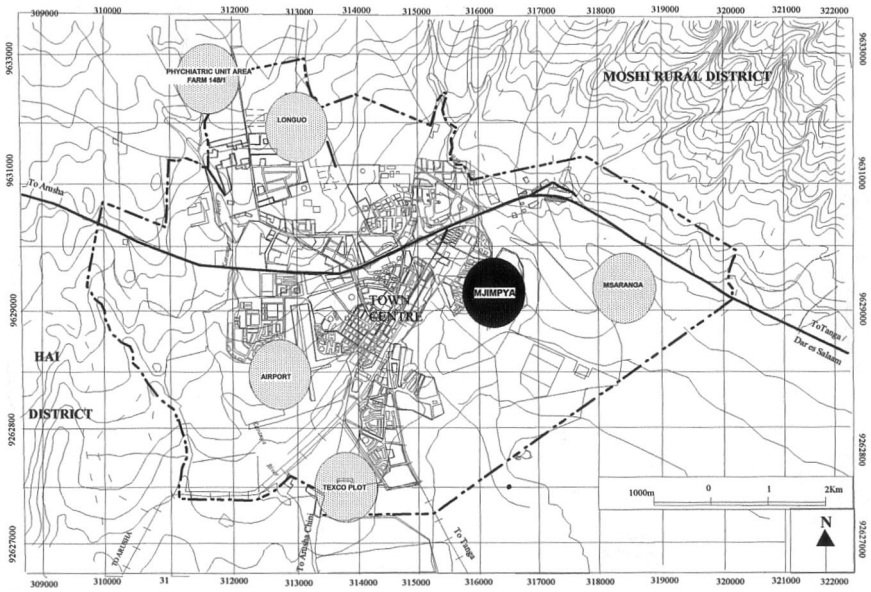


Figure 8.1: Mji Mpya and Majengo Miembeni sub case study areas

urban planning division of the Ministry of Lands, Housing and Urban Development. However, given the change in government housing policy to preserve and improve such settlements instead of clearing them, it was not possible to implement the layout plan because it did not take into account the existing houses and other properties. A new plan for the area was therefore a prerequisite if the spatial growth that was taking place was to be regulated and contained.

As one of the council's planners argued, this did not seem to be a priority during the 1970s, in part because the area was sparsely built up. By 1983, however, the number of houses had increased to 466 units from 257 in 1971, and a school had been built in a partnership between the residents and the council. Given what had happened in Msaranga, where the council had implemented a plan which could lead to the expropriation of land, some of the landowners who could afford it began to take precautionary measures by seeking survey permission from the council, with the intention of registering their lands. A typical application would be submitted to the council planning department after being scrutinized by the ward development committee, to ensure that the applicant was the acknowledged owner of the land and that there were no claims or disputes concerning it. Permission would then

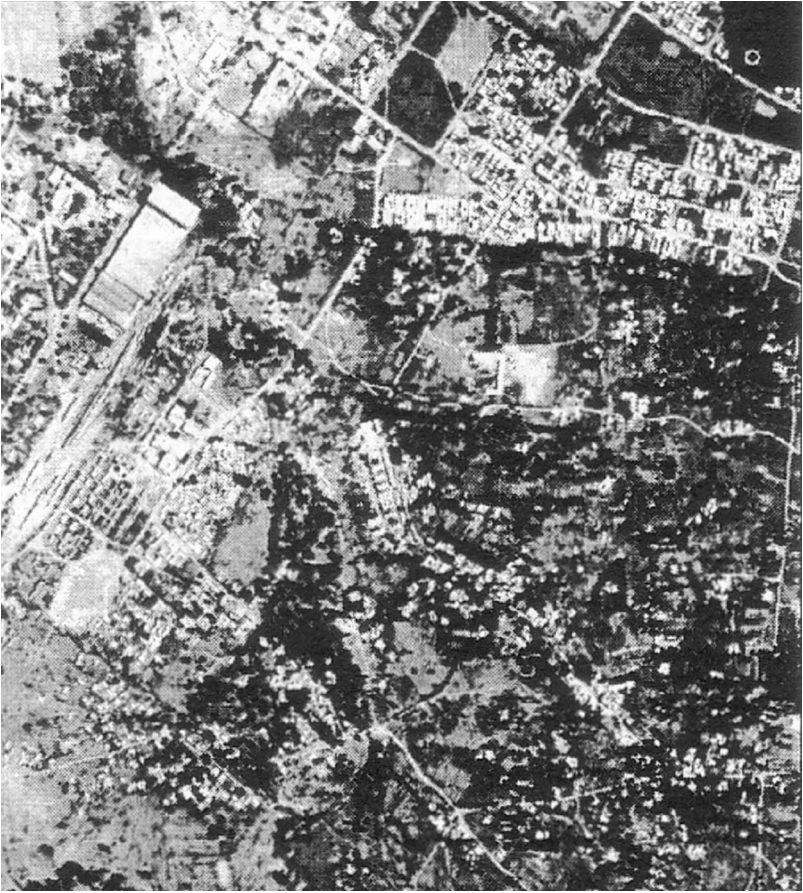


Plate 8.1: Mji Mpya and Majengo Miembeni 1983

be granted to allow a survey, eventually enabling the applicant to obtain a certificate of occupancy.

There being no layout plan for the area, the granting of survey permission implied that land registration would have to follow individual property rights and other interests. To provide for this need according to planning standards and to cater for collective interests, in 1986/1987 council planners decided to intervene by preparing a layout plan for the area to supersede the earlier plan prepared in the early 1970s. Apparently, by drawing on the experience of the abortive attempt to regulate land-use change in Msaranga, the planning approach was slightly changed. And as if the existing houses were all that



Plate 8.2: Mji Mpya and Majengo Miembeni 1992

were important to the landowners, the planners decided to prepare an updated map of the area showing existing houses, roads, and community facilities. This process was greatly facilitated by the fact that by that time the number of planners in the council had increased from two to four. Describing what prompted this planning intervention, one of the planning officers involved in this exercise said:

... (Despite) the existence of other unplanned areas, we realized that the area adjacent to Majengo which is Mji Mpya and Njoro was growing very fast.... We sat down ... and agreed that we must do something although we did not have the money pay compensation if some houses had to be demolished (where roads would be proposed) ... the main idea was to provide each landowner with a regular plot in order to avoid (greater) density in this area. On the basis of the surveyed plot, each owner could obtain a certificate of occupancy.¹



Plate 8.3: Mji Mpya and Majengo Miembeni 2003

Unlike the process followed in preparing the layout plan for Msaranga, this time the planners adopted a more cautious process. They began by registering all existing properties and other relevant physical developments to update the base map of the area. Before doing this, they informed ward leaders about the exercise they were going to carry out in the area so as to ensure that the residents were aware of the planners' presence and of what they were going to do in the area. During the process of carrying out the mapping exercise, however, the planners realized that "... residents were not aware of what was going on. They kept on asking questions: Have you now come to confiscate our land?" The planning officer said that as a consequence of this lack of awareness,

... As we continued with the mapping exercise, landowners hurriedly began to sell their pieces of land ... While carrying out mapping on this side, on the other side they were selling (land) ... our presence confused them because they did not understand the purpose of our exercise. We tried to assure them

that we did not intend to confiscate their land but were only interested in organizing their settlement ... to provide them with roads ... Of course some understood, but others said, "You always tell us that, but eventually our land is confiscated ..." ²

The mapping exercise took 3 months to complete. Immediately afterwards, the planners started to prepare a layout plan of the settlement. According to one of the planning officers, their main consideration in preparing the plan was to try to fit existing houses into plots as much as possible so as to avoid demolition, as well as to accommodate the existing main local roads.

While the planners were at the drawing board, the informal process of land subdivision, selling, and building continued. The process continued while the plan was in Dar es Salaam awaiting approval by the director of urban planning. He approved the layout plan in July 1988 (see Figure 8.2). In 1989, the council land surveyor began to demarcate plots following the approved layout plan. However, as soon as the survey began, the surveyor began to experience difficulties in following the layout plan. He started to make some changes on the layout to fit what was on the ground with regard to new buildings which had been built since the mapping exercise.

Another major conflict which confronted the surveyor was the discrepancy between the proposed plot boundaries and actual property boundaries on the ground. This important aspect of land development had not been recorded by the planners during the mapping exercise, because they did not consider land value to be an important issue, even though this is what made the developers dispose of their land or build speculatively before the council deprived them of this source of value. The process of building continued even after the survey had been carried out, making the exercise futile. Describing what had happened during the exercise, the planning officer said:

... While doing the survey, the surveyor kept reporting that "landowners are still subdividing (land) and building where the survey has already been carried out. Therefore, the surveyed rights of way of roads are being blocked." ... ³

The changes the surveyors had to make to proceed with the survey eventually became too many and too cumbersome to be made in the field, with the result that it was impossible to use the plan as the basis

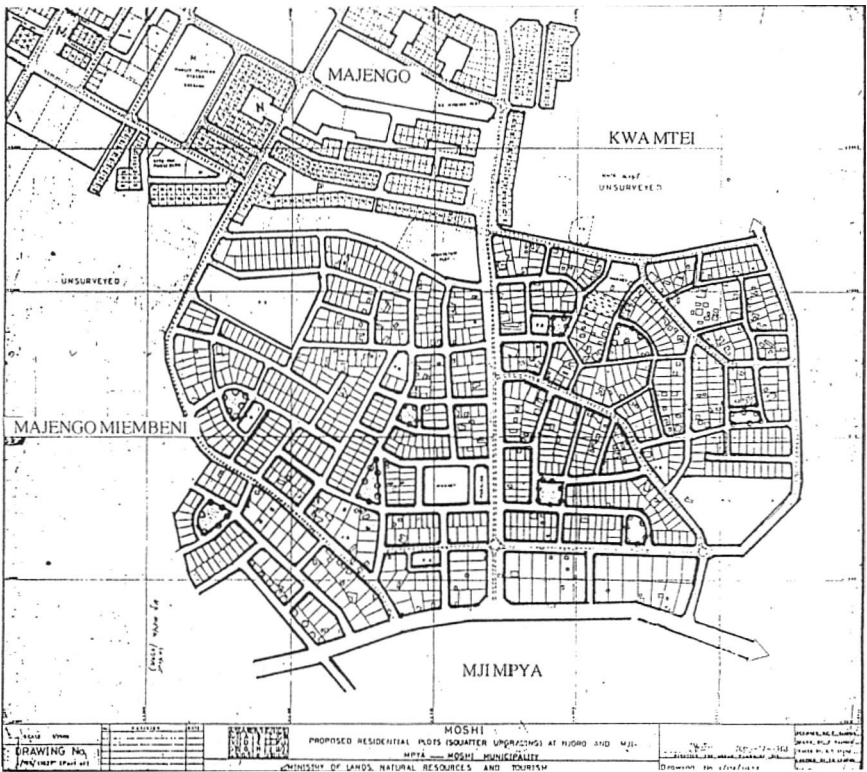


Figure 8.2: Mji Mpya approved layout plan. This plan entailed readjustment of property boundaries and hence land redistribution. Planners assumed that holders of land rights would not mind losing part of their land

for the survey. The surveyors suspended the exercise and reported the anomaly to the planners for rectification. When the surveyor in-charge of the exercise was interviewed by the author, he said:

If we continued to make the changes as dictated by what was on the ground (boundaries of landholdings and newly built houses), it would represent quite a different layout. Strictly speaking, we are not supposed to make changes to a town-planning drawing which has been approved for implementation. Of course we occasionally make minor changes, as we tried to do in this case, but we have to prepare a convincing explanation to the Director of Surveys when submitting a survey plan for approval.⁴

If major changes are deemed necessary, however, planners have to prepare an amendment scheme and obtain approval from the director of urban development. Responding to the author's question as to what would happen to the extra plots which resulted from accommodating each existing house on a plot of a given size, the planning officer said:

... That question could be answered by the land officer [who is responsible for allocation]. We did not, however, expect new people to be allocated land in the area. If, for instance, a landowner had one acre of land which consisted of four plots, all the plots would belong to him or her.⁵

Author

In view of the fact that you did not take down details of landownership boundaries and subsequently made arbitrary readjustments of boundaries, how did you expect to resolve the question of what would belong to whom and under what conditions?

Planning officer

We did not think about that. But it is a tough question to resolve, particularly here in Moshi where people are so conscious about land values and customary land rights.

Author

You said earlier that your planning attempts to regulate land-use change in the area triggered speculative development, land subdivision and selling, because landowners feared losing their land to the council. But prior to that you said your intention was not to take land from them, because all plots would be left to the landowners. We have, however, seen that your message did not reach the residents because when you went there they were unaware of this. Don't you think that if you communicated directly with the residents it could have ensured awareness about your intentions, and at the same time attended to matters arising out of that communication?

Planning officer

I am not very sure, but to some extent it would have helped, because we could explain our intentions to them and reassure them [of the security of their land rights].... We have never communicated directly with the people. I remember even in Longuo [dealt with in the next two chapters] we used the councilor for the area [to communicate with the people]. We normally use local leaders to communicate with their people.⁶

The planners were unable to rectify the layout plan to cope with the speculative changes which were taking place in Mji Mpya. Subsequently, the survey exercise stopped completely. However, informal land subdivision, selling, and building proceeded rapidly because the landowners thought that the survey exercise would continue. Reporting to the regional land surveyor on the abortive survey exercise, the municipal surveyor said:

... Because of the extent of Mji Mpya and Njoro areas, the survey had to be carried out in two phases. The first phase has been completed, (and) we are now finalizing computations so that a survey plan can be prepared. 224 plots have been surveyed during the first phase.... The second phase is expected to produce 250 plots.... Already there are permanent houses on 95 per cent of the area designated for plots.... The town planning drawing that was made as the basis for the survey needs to be changed, because many houses have been built on the right of way of designated roads. Otherwise many houses will have to be demolished....⁷

The layout plan was never reviewed, and therefore the cadastral survey could not continue. Even the survey plan of 224 plots could not be completed, because it had been rendered obsolete by the continuing subdivisions and construction. During the 1990s, however, there have been increasing requests from landowners for survey permission. One such request was made by a group of 30 landowners who were granted permission to survey their individual plots. Although permission was granted on the basis of the 1988 layout plan, the survey followed the property boundaries of the applicants, implying that

the plan was only intended for obtaining survey permission, and not as a guide for regulating land-use change as intended.

Response to Chaos Caused by Creation of Plots

In parallel with their attempts to regulate land-use change, some planners were busy searching for pockets of open spaces here and there to create plots. Plot-creation was justified in the name of in-fill plots for the resettlement of displacees from areas required for other uses. However, once such plots and a survey had been approved by the director of urban development, plots were allocated to developers other than those intended. Disturbed by the practice of “creations”, which he identified as “chaos” in land development, the director of surveys and mapping wrote to the director of urban planning, complaining that:

The surveys and mapping division is overwhelmed with town-plan drawings of single plots and farms all over the country. This is a very sad development which has taken root since 1978. As a result, the cadastral system in the division has almost collapsed and the availability of plots to the general public has been very much limited to a very few lucky individuals.⁸

In trying to rectify the situation, the director of surveys and mapping, who is normally responsible for issuing survey permissions, stated his directorate’s changed policy on this matter and asked the director of urban planning to instruct his planning officers accordingly.

This division was now to divert all efforts into the surveying of large layouts with at least a hundred plots. I have noted, with alarm, that such layouts are almost non-existent in all planning areas of the Tanzanian mainland. Would you therefore issue an official instruction to your regional town planners to pursue the above policy as soon as possible.⁹

Moreover, perhaps suspecting that lack of transparency in the planning practice was the underlying factor contributing to this state of affairs, he advised that plans should be brought to the attention of

the public concerned and of their democratic institutions for scrutiny before they were adopted.

... And that these plans be deliberately brought to the notice of the residents, the councils with jurisdiction over the area and our ministry before implementation.¹⁰

What the director of surveys and mapping suggested was never done, although it is a legal requirement under the Town and Country Planning Ordinance. Instead, the presentation of plans to the urban planning committee was preferred. However, created plots are never submitted to the committee. In response to the letter from the director of surveys and mapping, on 15 June 1989, the newly appointed director of urban planning issued Technical Directive No. 1 of 1989 regarding the design of layouts and other related matters. The directive was addressed to all regional town planning officers and all heads of town planning departments in urban councils. In the directive, the director observed that:

The present practice of preparing extracts of one or a few plots as in-filling, subdivision, change of use, extension, farms and squatter incorporation has almost destroyed the town planning record system and professionalism. The extracts have, in one way or another, caused a double allocation, a shortage of plots for the general public, poor record-keeping, destroying the land-survey cadastral system, and jeopardized the standards and ethics of the town-planning profession.¹¹

He then gave instructions that:

... extract [town planning drawing] for one or few plots should cease from 1 July 1989. No such plans should be entertained by any officer or office. Only under very rare circumstance will cases of farms and squatter incorporation be allowed where base maps and recent aerial photos are not available for the area under consideration ... Town and Country Planning Ordinance Cap. 378, and other Orders such as Modification of Schemes 1964, Master Plan Area Orders 1985 ... [otherwise] severe and deterrent professional disciplinary action shall be taken against any town-planning officer acting contrary to the provisions of the above laws and regulations ...¹²

Connected with the same problem, in the same year the Ministry of Lands, Housing and Urban Development issued new procedures for planning, survey, and plots allocation. Misuse and abuse of powers delegated to the councils were claimed to be the main factor which prompted the new procedures. The major change in the new guidelines was that the power of allocating plots was withdrawn from the council and given to the central government. Land allocation committees were established at national (ministry), regional, and district level.¹³ The practice of surveying single or a few plots had taken root in the decision made in 1979 by the director of urban planning to delegate powers of approval of up to 50 plots to regional town planning officers, as evidenced in Directive No. 1 of 1979:

... The following procedure for the preparation and approval of layout plans and land-use schemes shall from now on apply until further notice:

Additional plots to existing layout not exceeding fifty plots should be approved by the regional town planner. Above fifty plots, the layout should be submitted by the town planner to the director of urban planning for approval. . . . In the case of Dar es Salaam city council[,] all drawings and additional plots by the town planning office within the city council must be directly submitted to the director of urban planning for approval prior to approval by the urban planning committee.¹⁴

This directive had opened up a window of opportunity for unscrupulous planners to create a few plots here and there. In the name of in-filling, many open spaces were encroached on to create residential plots. It can be imagined how such powers could have been misused and abused in a place like Moshi Town, where, already in the mid-1980s, there was not much public land *per se* that had not been allocated to developers. However, even if plenty of land was available, given the opportunities and the lack of transparency in the planning practice, unscrupulous planners and other “gate-keepers” in the planning and land-development system could easily misuse and abuse the powers given them.

While planners in Moshi were virtually stuck, having again failed to implement their Mji Mpya and Majengo-Miembeni layout plan, and perhaps contemplating what to do next, the director of urban development was demanding layout plans for approval. The regional town

planning officer had earlier written to show that during the 1980s they had prepared only one layout plan, Mji Mpya, and that the main problem inhibiting the production of layout plans was a lack of funds to pay compensation for developments on the land. As plan production seems actually to have been the main preoccupation of the planners, having produced only one plan in all that time appears to have constituted an unsatisfactory performance.

... From 20 July 1988 until now, 6 February 1991 is a long time without sending layout plans to the Director of Town Planning [for approval]. Moshi is a fast-growing town. Therefore layout plans for residential use ... should be prepared in large quantities. The question of compensation bears no relation to the preparation of layout plans. Compensation for crops, houses, etc. shall be paid by the person to be allocated a plot.¹⁵

While it was proper for the would-be new developer or plot allottee to pay the necessary compensation, it was the government who, according to the land law, was required to pay compensation and who could presumably recover the costs from the new developers. From the late 1980s, however, given the inability of the government to do this, administrative practice left such costs to be borne directly by the plot allottees. The previous legal arrangement should have been deliberately designed to enable the government to play its redistributive role to ensure equal access by all those in need of this basic and strategic resource for a particular use, regardless of affordability. The question which surfaces in relation to the present administrative practice of requiring the would-be developers to directly pay compensation, represent a retreat by the government from its legitimate redistributive role, is: How is the intended redistribution going to be attained?

This retreat by the government does not, however, imply that compensation bears no relation to drawing up a layout plan. On the contrary, plan-making should be closely related to the question of compensation, because it touches upon interests of those with rights in the land affected by the plan. Moreover, by taking this question into account, it may influence the relationship to be maintained with those holding land rights over the land in question, interests to be considered in the planning process, and design standards. Otherwise, planning will be de-contextualized and thus cause conflicts, besides being reduced to an obsolete tool in respect of the intended purpose,

as we have already seen in the previous chapters. To claim that the question of compensation bears no relation with the plan-making over-simplifies and avoids the complex process involved in the planning and management of urban development in respect of lands with third-party interests. It also shows how planning is carried out without implementation in view.

Given the landowners' resistance against the council's intervention in Msaranga and the similarly abortive intervention in Mji Mpya, the supply of land through the official land-allocation system had been significantly affected. The list of applicants for plots, those who trusted that they would be allocated a plot 'free of charge', had become long. Deliberating on this problem, the regional land allocation committee observed that:

... Availability of plots has been difficult, as is illustrated by the small number of allocated plots, which is only three, compared with 1,348 applications received ... residents in all areas ripe for development such as Msaranga, Longuo, Shirimatunda, etc. were resisting the survey of plots [in their areas]. This problem has contributed to shortage of plots ...

Resolution: the legal suit in the court, in which the municipal council is being charged by residents for trespass, should be scrapped and a survey should be carried out ...¹⁶

Although with this resolution this committee was resolving to interfere in the due process of law, we have seen in the previous chapter that the court had not restrained the council from carrying out surveys in the area.

Summary

This chapter has shown that planners had learnt, though insufficiently, from past urban change conflicts resulting from their intervention. They were at least aware that giving information to residents beforehand was a prerequisite for the smooth carrying out of their exercise, lest their intervention was misinterpreted and mistaken for land confiscation. However, failure by the planners to communicate the purpose of the exercise directly to residents left the latter misinformed and hence worried about their land rights and other interests

in land. Their worries might have been increased by property owners' distrust of the planners, among other land administrators, when it comes to land. This chapter has also shown that by using a simple plane-tableing method, planners took the initiative in mapping existing houses. In doing so, they were able to avoid the unnecessary demolition of houses and hence limit the costs of compensation which would have to be borne by the council. The mapping exercise did not, however, take into account individual property rights, suggesting that such rights did not matter to the planners, although they did to those holding such rights, as we shall see in the next chapter.

The continued disregard of the property owners' land rights suggests that planners had not yet discovered what underlay the frequent disputes that arose as their plans were brought to fruition, and thus what undermined the efficacy of their planning intervention. Alternatively, and most likely, because planners do not live on their own island, they knew very well that property rights matter but took that reality for granted. The reason underlying the planners' behaviour towards land rights is rooted in the public land policy and the consequent notion which was inherent in the repealed Land Ordinance Cap. 113 of 1923, that land had zero value. According to this law, compensation was only payable for developments on the land. The planners' practice was also based on an administrative directive issued by the British colonial government in 1958, that once an area has been declared a planning area, customary land tenure rights were automatically extinguished.

We have also seen that the planning attempt to regulate urban change in the area triggered informal land subdivision and development, because landowners feared losing their land to the council. They knew that if such land were acquired by the council, no compensation would be payable. Moreover, compensation for any properties that might be on the land would be unrealistically low, even if the council had any money at all to pay compensation. Loss of land could occur as a result of the readjustment of individual property boundaries to attain certain specified standards, as well as to cater for roads and other community facilities. Finally, we have seen that the planners' message did not reach the landowners. Even if it did, it was likely to reach them in a distorted fashion, depending on the local leaders' ability to communicate the message correctly. However, even if they had this ability, they would perhaps not have been able to respond to questions which would be raised by the landowners in connection with such a sensitive exercise.

Therefore, apart from the question of land values and inadequate compensation, a lack of direct communication between the planners and the residents concerned contributed to distortions in the intentions of the council as perceived by the people, as well as to the latter's subsequent insecurity of tenure and thus speculative land subdivision and development. Direct communication with landowners could have helped in many ways. It would have provided the planners and the landowners with an opportunity to get each other's message directly and to respond to questions arising out of that encounter. In this way, the planners could at least understand residents' interests, while the latter would understand the intentions of the planners and thus the council. Undoubtedly, the reality about property boundaries would be grasped.

In this planning attempt, the planners did influence residents' decisions, but in ways other than intended. However, it appears that the feeling of insecurity caused by the planning attempt spread beyond the borders of Mji Mpya to similar settlements where planners were also able to intervene. Given this state of uncertainty about when their turn would come, residents in similar settlements might well have asked themselves what they could do to safeguard their land rights among other interests in land. On the other hand, the planners were also contemplating what to do next, because their attempts had triggered unprecedented speculative land subdivision and development which they had failed to cope with. The planners' professional toolkit did not seem to include any effective tool to deal with what was going on.

Finally, this chapter has shown that as landowners increasingly restrained planning intervention on their land, the supply of plots through the official system was adversely affected. Given this situation, planners misused and abused the powers delegated to them to justify a change in the use of lands designated for public use or extensions of existing layout plans, where residential plots were created, and these were dubiously disposed of to developers. Although this malpractice involved planners in the local authority as well as those in central government, the Ministry of Lands, Housing and Urban Development had an excuse to withdraw the powers to allocate plots it had delegated to local authorities. Instead, committees established at regional and district levels were given powers of land allocation in their respective jurisdictions. We have begun to see the regional land allocation committee at work, and as the story unfolds, we shall have an opportunity to view and evaluate its performance in land allocation. In the meantime, we shall now follow a community of landowners in

Longuo, a settlement where similar informal land subdivision was taking place. We do this to show residents' strategy to safeguard their land rights and other interests in land against planning intervention, which so far has shown itself to be insensitive to such rights and interests. More importantly, we show a rare opportunity availed to the planners to collaborate with residents to address the so far a thorny problem of regulating spatial change in the urban fringe. Will they recognize and use the opportunity to make a difference?

A Strategy to Safeguard Land Rights

Despite the council's retreat to the 1973, since they were uncertain where or when the planners would strike next. For as will be seen in this chapter, one such target might have been Longuo settlement. This being the fear shared by the Longuo residents, while at the same time they recognized the negative consequences of their disjointed actions, the subsequent two chapters explore a strategy by the Longuo residents to reshape their built environment collaboratively with the planners most likely to safeguard their individual land rights and other interests in land, so far have been disregarded by the planners. The case story shows the planners being invited by the residents, a rare opportunity for collaborative planning. Considering that planning and management of land-use change in the urban fringe has so far been a thorny issue, how will the planners respond to the invitation? Will they recognize this as an opportunity to do what they had so far failed to do and hence make planning work? What were the residents' expectations and what was consciously delivered instead by the planners to serve whose interests?

Having successfully resisted the council's planning intervention to regulate land-use change in their neighbourhood since July 1973 when the settlement was incorporated into Moshi Town, by 1986 a sense of insecurity in land rights and in investment in land was creeping into the minds of landowners in Longuo "B". Although unsuccessful, the council's planning attempts in Msaranga and later in Mji Mpya had created the precedent that any other settlement could equally well fall victim to similarly insensitive planning interventions. The possibility that Longuo settlement could be the next target could not be ruled out, given its prime location in an upper-class ward and its proximity to important facilities such as the Kilimanjaro Christian Medical Centre referral hospital. Planning interventions could also be justified by the unregulated land-use change, which was occurring increasingly

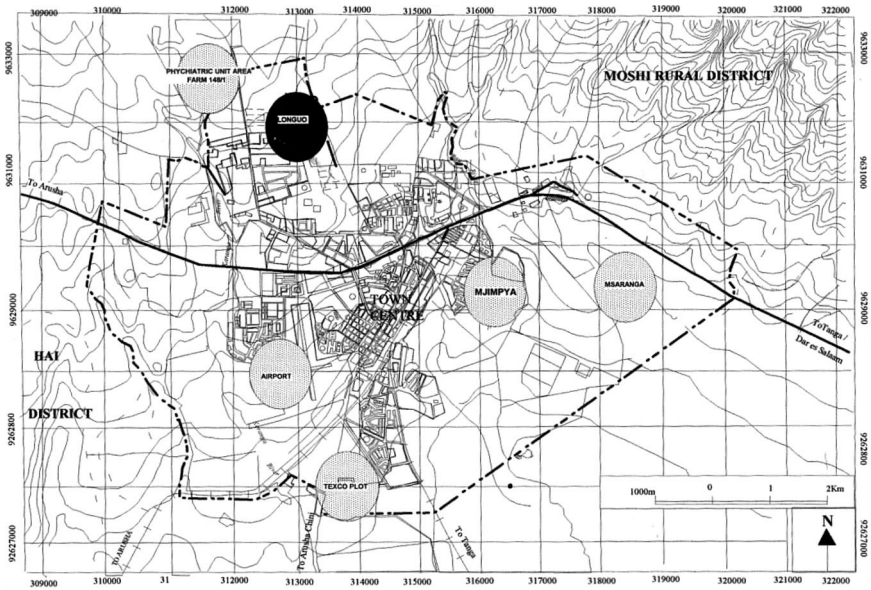


Figure 9.1: Longuo “B” sub case study area

in such prime areas, something which, as will be seen later, most landowners claimed. Moreover, as shown in Chapter 3, residents of Longuo had already discovered that the area where their settlement was designated for institutional use in the Moshi Master Plan. Increasingly, therefore, one by one, landowners began to seek permission to survey their land so that they could be granted a certificate of occupancy by the government.

Longuo Settlement

Longuo “B” settlement was administratively a part of Longuo village in Moshi rural district. The village was registered on 2 April 1976 under the Villages and *Ujamaa* Villages Registration Act of 1975.¹ Two months later, on 16 June 1976, the village council was certified as a corporate body.² As indicated earlier in Chapter 3, the settlement was incorporated into the Moshi municipality after the extension of the town boundary in July 1973, becoming a part of Longuo urban ward.³

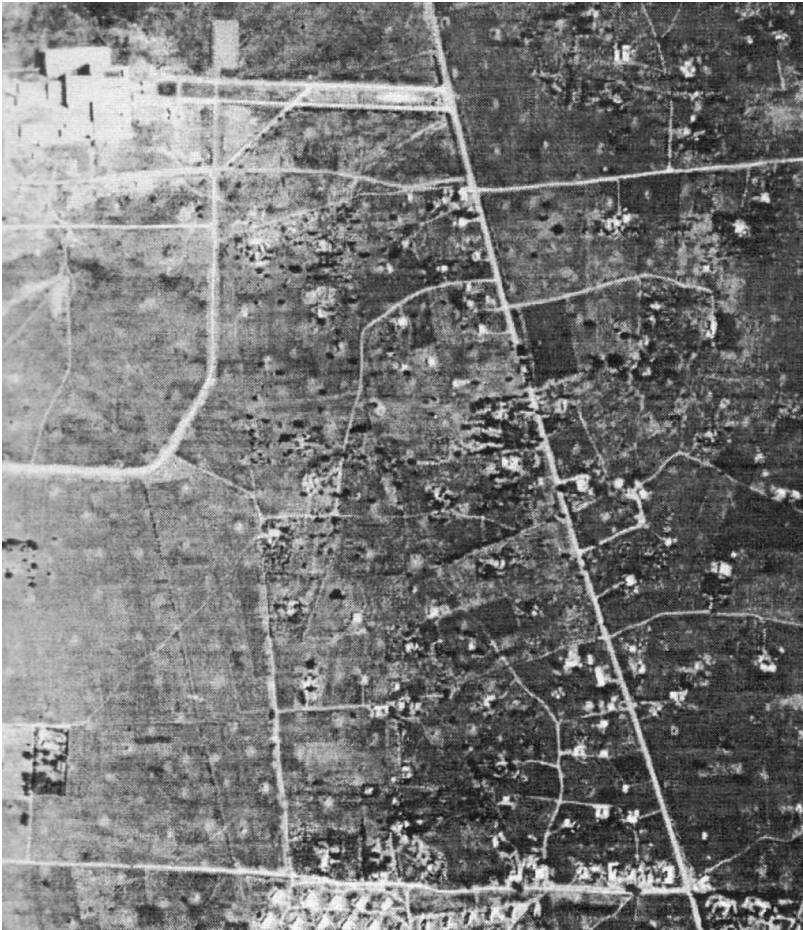


Plate 9.1: Lunguo settlement 1973

Longuo is one of the unplanned settlements in Moshi Town, occupying an area of 36 hectares in a ward which is otherwise exclusively for the upper class. Based on a survey carried out for the present study, Longuo “B” had 3,581 inhabitants in 1994 living in 272 registered housing units. This implied a gross density of 100 inhabitants per hectare or 13 persons per house/plot, given an average household size of 5.5 persons. The occupancy rate was double that of the rest of the ward, which was 6.4 persons per house/plot, and unlike Longuo “A”, where there was only one household per plot, in Longuo there were 2.5 households per plot. According to the 2002 national



Plate 9.2: Lunguo settlement 1983

population census, the settlement's population had reached 5,988 inhabitants, implying a gross density of 166 inhabitants per hectare.

However, this density was slightly lower compared with other older and consolidated unplanned settlements such as Kwa Mtei and Kaloleni, whose density was three households per plot. Again, compared with these settlements, which were brought under the jurisdiction of the municipality at the same time, Longuo "B" remained rural in its character and functions, while the other two settlements urbanized faster, partly because of their proximity to major employment centres, the industrial area and the town centre, and partly because of the inertia of urbanization, which was already present before they had been incorporated into Moshi Town. These settlements provided cheap rented accommodation to the low-paid workers who were employed in the industries and the town centre. Increasingly, however, the agricultural use



Plate 9.3: Longuo settlement in 1992

which once gave Longuo its rural character was being replaced by residential use. Whereas in 1971 there were only 60 houses, this had increased to 170 in 1983 and 264 by 1992.⁴ Two years later, when fieldwork for the present study was being carried out, there were 272 houses.⁵ The land-use change that occurred in Longuo was linked to a demand for housing accommodation in the area, especially from the immediately surrounding institutions, namely the police training college, Moshi secondary school and Kilimanjaro Christian Medical Centre referral hospital.

As indicated in Chapter 8, until the abolition of the chieftainship in 1963, land in Longuo settlement belonged to the Chief of Uru, who allocated it to the original settlers for cultivation and settlement. Eventually, such land was passed to male children in accordance with the cultural traditions of the Chagga people. Most of the original



Plate 9.4: Longuo settlement 2003

allottees and therefore settlers in the area were migrants from outside Kilimanjaro region, who were employed on the coffee, bean, and papaw plantations owned by European farmers who lived and farmed the land around Moshi Town. Eventually, these original settlers were replaced by newcomers who happened to be local people from Uru. A descendant of one of the original landowners explained how he acquired his piece of land:

Our fathers approached the then Chief Joachim of Uru and asked to be allocated this land. What the chief did was to direct his headman to show you a piece of land in this area. It was a wild

area. There were lions, leopards and elephants. You could easily trap animals such as gazelle . . . for meat. These original settlers cleared the forest in order to make it habitable and get land for cultivation. The area was so wild that it was impossible for the headman to demarcate the boundaries of the parcels of land allocated to various individuals. As land was abundant, the original settlers practiced shifting cultivation. Therefore, only the piece of land needed for cultivation at a particular moment was cleared.

As population pressure began to be experienced in Uru villages, some villagers approached their chief for a piece of land, mostly for the purpose of securing land for their sons. The chief responded by allocating them land in Longuo “B” or Rau, because not all the land there was being put to use. However, because the chief respected our fathers (original settlers), he consulted them before allocating land to the newcomers. He would always send them with a message: “I am sending this person, receive him and let him be allocated a piece of land. . . .” After being shown a piece of land, a “*sale*” (a traditional Chagga plant) was planted to demarcate the boundaries. This ritual of planting “*sale*” symbolized that this was now a *kihamba*.⁶ Once the “*sale*” was put in place, normally in the presence of the elders and Mchili or headman, it was strictly forbidden to remove it.⁷

Another informant acquired land in a completely different way. Telling how he acquired the land, he said,

When my aunt came here she was not married, she used to “help” (fool around with) the King African Rifles – KAR soldiers . . . and got three daughters. . . . She got this piece of land from Chief Sabas. What happened is that after getting the three daughters, she moved from a rented room in the neighbourhood and lived with a Sukuma man . . . who originally owned this land. When this person died, the chief wished to reallocate the land because the deceased did not have a child to inherit it. It was during this time that my aunt went to the chief to ask to be allocated the land. As my aunt was not lucky enough to get a son, she was asked by the chief to look for a person (male) to whose name the land would be attached and would thus inherit the land. My aunt approached my father on this matter. What I remember is that my aunt and

father slaughtered two goats and took all the meat from one of the goats, excluding the head, stomach and limbs, to the chief. Meat from the second goat was consumed at her place by the chief, his assistants and the elders who attended this function. My aunt was then asked to meet the chief the next day, accompanied by the old man and my father, in order to be allocated the land in my name.⁸

Appreciation to the chief for allocating land to his subjects was expressed in many ways, as described by one of the residents.

Although it was not compulsory, after harvesting whatever had been planted on the land, you would take a portion of the harvest to the chief to express your appreciation for allocating the land that had enabled you to settle and produce crops and rear livestock. This appreciation could therefore also include livestock such as goats, which were offered to the chief after two to three years.⁹

Despite the state ownership of land and the operation of the customary tenure system in parallel, purchase was also one means by which landowners in Longuo, like many others in Moshi Town, acquired access to land. Telling how he did this, another resident of Longuo said:

I approached certain landowners in this area (for a piece of land). I was directed to one old man who lived in Uru (in Moshi rural district), but had a piece of land in Longuo. The people who directed me to him were convinced that if I met him, he would agree to sell to me a piece of his land. I started to inquire after his whereabouts, his children and so on.... I then approached a person who knew him well and was friendly towards him. I asked him to go and convince him to sell some of his land to me. He went to see him and upon coming back told me the old man would like to see me. As a gesture of respect to the old man, when I went to see him I bought and carried with me a tin (twenty litres) of local beer and some meat for roasting. ... While we were drinking and eating the meat, he asked me state my business, which I did. The old man said he had heard that the council intended to survey plots in the area and allocate them to people.... After a long talk, he agreed to sell me a portion of his land which borders the Kilimanjaro Christian Medical Centre, so that after building I would act as a physical barrier against the

council's encroachment. . . . I remember having to pay Tsh. 8,000 to acquire this plot (28 by 30 metres), a lump sum payment of Tsh. 5,000, and Tsh. 3,000 for the purchase of local beer during negotiations and afterwards. . . .¹⁰

A survey carried out by the author in 1994 showed that buying was by far the major means of access to land in the area. The survey indicated that 70 per cent of the property owners interviewed bought land. Although payment in most transactions was in the form of cash, landowners increasingly preferred a different arrangement in which a buyer was required to build a house to a standard specified by the landowner. Landowners preferred this arrangement because it provided them with a relatively convenient means of adapting to the urban economy in that those who were mostly farmers could become landlords and survive on house rents, as less and less land was available for farming.

The master plan designated Longuo "B" an area for institutional use, disregarding the settlement which already had 60 houses in 1971, as earlier indicated. This proposal implied that the settlement would have to be moved, something the residents were not aware of until, as we saw in Chapter 3, they discovered the master plan document in the Prime Minister's Office. However, this proposal was not implemented because, right from the time the boundary was extended to incorporate their area, the residents objected to this decision, to the extent that a decree issued by the High Court at Arusha on 22 November 1983 ordered the council to refrain from causing a "nuisance" in Longuo area. As observed by the councilor for Longuo following that decree, "Although we did not win or lose, we succeeded in reducing the council's speed and manner of intervention in the area. The council was ordered that if they wanted to intervene in land development in this area, they should do so in a civilized manner."¹¹ Land use in the area has therefore continued to be a mixture of agriculture and housing, with housing increasingly becoming the dominant use. The change in land use from agriculture to housing has proceeded according to the interests and decisions of the landowners, with minimum influence from local leaders, whose intervention has been limited to safeguarding community spaces, such as the way leaves for roads and footpaths, against encroachment by individual private developers. In addition, local leaders have played a key role in resolving plot boundary disputes between neighbours, as well as in witnessing the transfer of rights when land is sold.

In an attempt to regulate land-use change in the area, and contrary to the proposal contained in the master plan, in 1985 the regional town planning office prepared a residential layout plan for Longuo “B”. The plan proposed low-density residential plots to conform to the adjoining low-density residential neighbourhood “Shanty Town” area. The plan was approved by the director of urban planning, as he was referred to at that time, but it was not implemented. In view of its discrepancy with the pattern of development at that time, it was unlikely that the plan could have been implemented without resistance from the landowners, whose legal suit against the council had been granted by the High Court at Arusha in 1983.

Invitation to the Planners

Four years later, on 12 May 1989, the council planning and land officers were invited by the local leadership in Longuo ward to attend a meeting between the ward development committee and ward political committee. The meeting was chaired by the ruling party, CCM, branch chairman, and attended by the councilor for the area and all executive officers in the ward, including the executive secretary, party secretary for the ward, education coordinator, revenue collector, and health officer, who together constituted the ward development committee. Also in attendance were all the members of the ward political committee. Because the chairman arrived late at the meeting, it was officially opened by the executive secretary, who invited the councilor to brief the members on the purpose of the meeting. The councilor began by saying:

Longuo is one of the new wards in Moshi municipal council. . . . There are many problems requiring immediate attention lest this ward – Longuo “B” develops into a funny environment, particularly with respect to the habitat and basic services. This kind of common meeting [between the ward politicians, executives and officials of the council] is very important for [developing] a common understanding on different development issues in this ward in general.

We therefore request the entire management of the council, in collaboration with that of this ward, to take immediate measures to educate the residents about urban settlements policy in

general, and policy on un-surveyed areas such as Longuo settlement in particular. . . . There are people who are scaring the residents that their land will be acquired by the council as a strategy to pressurize them to sell their land to them. The consequence of this is that people have hurriedly built small houses haphazardly and very densely, especially in the southern part of Longuo. Because of this [problem] and many others, the ward leadership has decided to *invite the planning and land officers from the municipal council to come here to co-operate with us to solve the development problems confronting us, among which are . . . haphazard building* [authors emphasis].¹²

After a lengthy discussion of the issue, the meeting observed that:

- (i) Haphazard development was caused by people who were cheating the landowners (into thinking) that the council was going to acquire all un-built spaces.
- (ii) Some landowners were taking the opportunity to get money (lust for money).
- (iii) This situation was greatly facilitated by some of the ten cell leaders, who secretly witnessed such land transactions without reporting the deals to the ward office.
- (iv) If the situation was left to continue, especially in Longuo south, people's health will be affected if there is an epidemic, some houses having no room for a pit latrine. . . .¹³

Following these observations, the planning and land officers clarified the council's position on the issue of land acquisition, the land use envisaged in the area, and the steps to be taken to prevent unplanned house building. Informing the meeting about the land use envisaged in Longuo, the two officers said that the area was supposed to be developed as a green belt. This official information contradicted the 1974 Master Plan, which designated the area for institutional use, but it was very much in line with the land-use policy intended for the area after it was included within the jurisdiction of Moshi Town in July 1973. The following is an extract from the officers' explanation:

. . . The council has had no intention of depriving people their land. Longuo area was envisaged for development as a green

belt, meaning a residential area combined with farming; but this green environment is disappearing, because the areas used for farming are being consumed by haphazard building. Because of this, the Municipal (Council) will take a different measure to prevent this situation by organizing the settlement in a hygienic manner . . . [to start with] the council plans to provide a number for each house, in order to prevent an unplanned increase of houses. Also, the ward leadership should assume responsibility for raising people's awareness of this problem.¹⁴

Having heard this, the members of the committee deliberated again on the issue and resolved that:

- (i) The ten cell leaders should be made aware of their responsibility on this matter.
- (ii) As from now, no new house should be built anywhere in Longuo without informing the ward leadership. . . .
- (iii) Punitive action will be taken against any person violating the settlement order and selling land. Buyers will not be allowed to build . . .¹⁵

Before the meeting ended, the question of certificates of occupancy was brought up. The two council officers took the opportunity to describe the procedures that were supposed to be followed and the different forms of certificate of occupancy issued by the government. By that time, a number of applications for survey permission had been submitted by various landowners in Longuo. The motives for wishing to have their land plots surveyed varied: obtaining a certificate of occupancy which could be used as collateral for a bank loan; securing a document recognized by the government, something which many residents believed would prevent boundary disputes between neighbours; and also preventing previous landowners from reclaiming land that had been sold. During an interview with the author, one landowner claimed that:

Those who wished to have their land surveyed were the buyers, who feared that the previous owner could change his or her mind [and claim back the land]. They also expected that the survey would prevent possible boundary conflicts.¹⁶

As indicated in the previous chapter, until the change adopted in 1989, whoever applied for survey permission was granted it, provided existing or intended land use conformed to that prescribed in the master plan. The process involved submitting an application to the ward development committee for scrutiny, to ensure that the land was registered under its acknowledged rightful owner and avoid possible disputes over ownership rights in the future. Afterwards, the application was submitted to the council for processing before permission to survey was issued to the applicant.

After the meeting with the local leaders in Longuo, planners did nothing to help the residents as requested. In an interview with the planners, they said what was needed in Longuo was a layout plan, which they could not prepare because they did not have a base map of the area. Moreover, the Council had no money to finance a mapping exercise. They therefore advised the land owners to finance that exercise.¹⁷ On 15 November 1990, a group of 14 residents of Longuo “B” submitted an application through the ward secretary for survey permission to the council land officer. The letter of application under the heading: “A request to have our *customarily owned farms* in Longuo B surveyed” listed the 14 residents. Despite the customary land rights that were claimed, the request suggested a feeling of insecurity of land tenure among the residents because they did not possess a certificate of occupancy granted by the government. They were also concerned about unguided development taking place in the area, which they were individually and unconsciously contributing to and which was likely to affect them negatively. These concerns were apparent in their application for the survey permit.

. . . We wish to request survey [permission] for our farms so that we can obtain a certificate of occupancy for these farms[.] . . . since the government declared this area part of [Moshi] Town, the construction of buildings has proceeded haphazardly. Moreover, we have hesitated to build large houses for residential and commercial use for fear that such buildings would be demolished. We are ready to meet the survey costs.¹⁸

Upon receiving the letter of application, the regional land development officer wrote to the council planner asking him to look into the possibility of preparing a layout plan for the area so that survey work

could be carried out in accordance with the procedures in place. A copy of this letter was sent to the Longuo “B” ward secretary, who presented the message to the ward development committee meeting held on 29 April 1991. At the same meeting, the ward secretary reported that in addition to the 14 applicants for a survey permit, another resident had applied for survey permission: “Mr . . . has submitted his application to the ward office. After ensuring there was no dispute over that area, his application has been recommended and forwarded to the council.”

Describing how the idea of a survey came about, one resident, who was also a member of the group which approached the council for permission to survey, claimed that:

. . . This exercise (mapping of the area) was prompted by a group of people who wished to obtain certificates of occupancy as collateral for bank loans. Others, including me, were not interested in a loan but wanted to have our land boundaries surveyed to get them legally recognized.¹⁹

The link between survey and bank loan was also confirmed in an interview with the land surveyor, who asserted that:

Many people here in Moshi, especially at that time, wanted to survey their areas [plots of land] for the purpose of processing certificates of occupancy for their land. . . . Many of the applicants for permission to survey intended to use the certificates as collateral for bank loans.²⁰

A resident whose father was one of the original settlers said:

As time passed we asked ourselves, if this [area] is now part of the town, why shouldn't we get our land plots surveyed, so that we get a certificate of occupancy for the land? . . . But the Council told us that they had allocated no funds to pay the surveyors. . . . [In view of this] the councilor negotiated with the council and agreed with the surveyors that they would come after office hours to draw a map of our area . . . every one of us would have to pay Tsh. 1,000. We paid this amount and the work was done, but they [surveyors] did not put out beacons.

Interviewer: What exactly prompted you to carry out the survey at this particular moment in time?

Resident: We know quite well that once you have a certificate of occupancy for your land, you have power (over the land).

Interviewer: What sort of power?

Landowner: You know, if an investor in a factory comes with a lot of money and you happen to have a big piece of undeveloped land which you don't have a certificate of occupancy for, the government may decide to allocate it to that investor. Sometimes you may not be paid compensation, because the government has no money. In this case you would have lost your land. When we learnt about the survey from the councilor, nearly all of us agreed [to survey our land plots]. A few did not. I remember that one resident in my ten cell unit objected to the idea of survey. There was also a ten cell leader who objected to this exercise.²¹

Yet another resident was prompted to do the survey for a completely different reason. His neighbours had not been faithful to his father:

. . . My father's plot was originally the same size as that of our neighbour, but now it is less wide by eleven metres. What happened is that between 1971 and 1973 my father fell sick. During that period our neighbours encroached on our plot. This one . . . [name mentioned] pushed the boundary back by eleven metres. Our neighbour on the back also encroached our plot.²²

The resident knew that obtaining a certificate of occupancy entailed carrying out a cadastral survey of their respective pieces of land. This knowledge was based on their experience of seeing what some of the residents in the area had done to acquire their certificates of occupancy. Basing themselves on that knowledge, the resident applied for permission to survey their respective plots of land, only to be told that they could no longer be granted such permission until a layout plan for the area had been prepared by the planning department of the council. The position taken by the council was the result of a directive issued by the director of urban development, as we saw earlier.

An interview with another resident who bought land in Longuo in 1979 revealed that most of the applicants for survey permission were land buyers. He revealed the disruption and time wasted by applicants for survey permission simply because of the ambiguous division of responsibility for planning and implementation between the council/local government and the regional lands office/central government

representative. This was despite the fact that the applicant would be paying for all the costs of the survey and, more importantly, to register his land, thus subjecting it to various rates charged by both central and local government, the most significant being land rent. Describing the hurdles in getting his land surveyed, the resident said:

The decision to survey our plots came after some of us had approached the council to seek permission to survey our plots. We were mostly those who had bought land. In my case, sometimes in 1990/91, I went to the council to seek permission to survey. I was told to go to the region [the regional land development office]. When I went there, I was told to go back to the council, which I did, only to be told to go to the region again. Eventually, at the region, I was directed to see a certain surveyor. The surveyor told me to go to the council to get survey permission. When I went to the council, I told them that I had been informed that it was them who were responsible for this. Having heard that, they said "Go [home], the councilor will bring an answer to you".²³

Confirming the resident's statement, and revealing their interpretation of the director's instruction, another council planner described how the planning department had responded to the applications for permission to survey.

. . . they [the residents] brought their letter of application to us [the planning department] and we told them of a new policy from Mr . . . [name of Director of Urban Development mentioned] which prohibited the survey of single plots; instead, they should be at least a hundred plots. . . . We told them to go to the regional land development officer, who gave them a similar response. . . . They went back and agreed among themselves that they wanted the entire area to be surveyed and that they were ready to meet the costs of the survey.²⁴

However, not all residents felt the need to obtain a certificate of occupancy for their land. A few of those who had inherited land rights from their parents did not bother because their land rights were acknowledged and recognized by all their neighbours. To them, the question of obtaining a certificate of occupancy was inconceivable,

because land had not been allocated to them by the council; rather, they acquired such rights through inheritance from their parents. Moreover, as they had no plans to use their land as collateral for a bank loan, to them land registration was a useless exercise, unless they could be persuaded otherwise. These residents were therefore unwilling to let their land be surveyed, as indicated in a response from one of the oldest resident in the area:

When they reached this place [carrying out the survey], I told them not to put their legs on my land because I had not been given by the council. They claimed that after the survey, I would be granted a certificate of occupancy. I asked them [a certificate of occupancy] for what purpose? How do you think I have been occupying this land before?²⁵

The Councilor's First Agenda

The councilor, who played key roles to include sensitizing and mobilizing his electorate, as well as a link person and negotiator between them, the council and the surveyor, claimed that the idea of this survey exercise was one of his two priority agenda when he was elected councilor for Longuo. The other agenda was the establishment of a primary school in the area, the present Sokoine Primary School. Describing how the survey exercise began and his role in the process, the councilor said,

My first agenda as a councilor for Longuo [after being elected to office in 1988] was to convince the council to accept Longuo settlement as it is, because the government had no money to compensate cases of demolition, and the council had no land on which to resettle the would-be displacees. The council accepted this request. I then started to educate people [with the fact] that the council would eventually prepare a detailed plan for the area because the existing settlement pattern was unacceptable to them. If they did so, houses would be demolished. . . . I told them that the strategy would be to carry out a survey of the area to show the council how we are settled. This view of our settlement will then be taken to the council to see whether there will be any need to resettle any of us. This, I argued, would be far better than letting the council resettle all of us.

Having done that, I convened a meeting of the local leaders in Longuo, the party chairman and ten cell leaders. I told them that since our area was part of the town, *we could no longer continue to live like goats in a shed* [author's emphasis]. We needed to have a plan which would be recognized by the government. We then resolved that each ten cell leader should educate people on that need. This task took a whole year. The next step was to find a land surveyor to carry out the survey. I met . . . [name mentioned] who agreed to do the exercise . . . for Tsh. 1,000 per landowner, because it was not a government assignment.²⁶

The councilor's pivotal role was widely acknowledged by a cross-section of the people interviewed, ordinary residents, the ten cell leaders, the sub-ward chairman and the planning officer responsible for the layout preparation who recalled that:

Ordinary resident: After agreeing with them, the councilor convened a meeting of all landowners at the CCM office. At this meeting the councilor reported that he had taken our request for a survey to the council, but the government had no funds to pay the surveyors. However, the surveyors could carry out the work after office hours, provided we agreed to pay them some allowance. We were told that their allowance would be Tsh. 1,000 per landowner whose land would be surveyed. After the survey has been carried out, some of the drawings would remain with the council, while others would be taken to Dar es Salaam [for approval] and promptly returned so that our certificates of occupancy can be processed quickly.²⁷

Ten cell leader: Our councilor told us that there were plans to survey our plots and get certificates of occupancy . . . The councilor informed us that several people had approached the council for survey permission. He informed us that his discussions with a surveyor from the regional lands office indicated that the costs of surveying a single piece of land would be about Tsh. 20,000. He had, however, reached an agreement with the surveyor to carry out the survey for only Tsh. 1,000 per plot, this amount being an allowance. . . .²⁸

Sub-ward chairman: [This survey] was [a result of] the efforts of our councilor, who was always bothering the council by asserting that, "You were ordered [by the 1983 court decree] not to

disturb us, we want our area to be surveyed according to the existing pattern.”²⁹

Planner: The councilor was very instrumental in mobilizing and organizing the people. He helped us a lot during the survey, and whenever we visited the area we found people informed about what was going on.³⁰

Planning Without Planners

The surveyor in-charge of this exercise confirmed that in 1990/1991, many residents went to the survey department to enquire about the possibility of surveying their land plots to obtain a certificate of occupancy. He claimed that these people had been directed to him and that he was ready to help them, but his desire to do so was constrained by the fact that the planners had not prepared a layout plan for the area as the basis of a cadastral survey. There being no machine-plotted base map of the area or public funds to finance mapping, the planners sat back and waited for the surveyors to prepare and bring them an up-to-date map of the area.

This seemed quite strange to the surveyor, who knew that planners were also trained sufficiently in photogrametric skills to prepare a map of an area by using various sources such as existing maps and aerial photographs, then carrying out field checks to update the map. The surveyor was therefore not convinced by the planners' excuse for not having prepared a layout of the area simply because there was no machine-plotted map of it. During the interview, the surveyor appeared to be extremely disturbed by the planners' non-innovative attitude, which could stifle instead of facilitating the residents' initiatives. Commenting on the planners' attitude, the surveyor said:

The problem we have here [in Moshi] is that planners, I don't know about others, never like to pick details [update maps]. What I know and saw being done at Ardhi Institute [were they were trained] is that [trainee] planners went to the field with a compass to register new houses or any other detail they deemed necessary to update a base map. But what they do here is to direct residents [applying for survey permission] to contact the survey department [to prepare updated base maps] . . .³¹

As we saw in Chapter 8, in 1987/1988 the planners did actually try to do what the surveyor expected them to do, but for reasons we have already seen and others to be seen later in this chapter, their efforts did not take them far. Expressing his desire to help the many residents who approached him to survey their land plots, but unable to do so because of the planners' failure to prepare a plan, the surveyor said:

. . . I could do it [carry out the survey], but it was difficult. . . . I discovered that I could not help them because there was no town-planning drawing for the area. I contacted the council, I mean the planners, who said there was no layout of that area or a topographical map or standard sheet of that area. Therefore they could not prepare [a layout plan]) unless I took the details [mapped what existed in the area]. . . .³²

The surveyor's observations on the planners' attitude and style of practice was even better described by the council planning officer himself in responding to the author's question on what did they do to facilitate the landowners' initiative in having their plots surveyed. He described how they avoided a co-ordinating role in practice, to avoid accountability. Co-ordination to facilitate development processes was perceived by the planners as mobilizing the people, a role regarded as suitable for local leaders or somebody else but not for planners.

We never like to get involved in coordinating people . . . and collecting money [from them]. In case of a problem it would be our responsibility. . . . Let an outsider organize them, so that in case of a problem we will not be accountable. . . . We also use local leaders such as sub-ward chairmen or councilors to organize people . . . normally our work is not to mobilize people. Once a plan for an area has been prepared, we ask the local leadership to inform their people about it and urge them to seek survey permission. . . .³³

Responding to another question from the author on how the whole exercise began and why the work was carried out by a surveyor from the regional office instead of the council surveyor, the council planning officer said:

. . . It is not us who did it . . . the residents decided to organize themselves and to contribute money, after we had given them

the details we required from their settlement. . . . We told them that a surveyor would be required to pick details. They then looked for a surveyor . . . who happened to be one of the surveyors in the regional office. He mapped the boundaries of each landowner and other details in the settlement. They engaged this surveyor because they thought that the work would be done faster. . . . We thought it would be a lot of work [to pick the details] because of the area involved. We therefore decided to let the people look for their own surveyor. . . . After all, we had no money.³⁴

The council had no money, but the residents were ready to contribute their own funds to finance the exercise. Their problem was therefore not money but rather finding someone to do the work for them and to advise them on settlement organization and environmental matters as was deemed necessary. The council planning department was not ready to assume this responsibility because as the planning officer claimed earlier, they preferred to avoid coordination and accountability. In doing so, however, they also avoided an opportunity to influence urban change and thus lost the opportunity to carry out realistic planning which would represent an agreement between the stakeholders and the council. Nevertheless, the land surveyor played that role: advised the residents to organize themselves into a large enough group to be able to finance the preliminary survey; facilitated negotiations among the residents and advised them on various planning aspects. Describing what happened, one resident said:

The surveyors required us to contribute Tsh. 1,000. This was meant to meet their subsistence requirements while they were carrying out this exercise.³⁵

Another resident said:

They came accompanied by one of the residents of this area, who without the consent of the owner was directing them that this piece of land belongs to . . . That's why some landowners' names exist [on the demarcation map of the area] without them knowing that their areas had been surveyed.³⁶

And another resident said:

We were informed about the survey of plot after the surveyors had been in the area. Each plot owner who allowed his plot to be surveyed paid Tsh. 1,000. We were told that this would be used to pay the surveyors. Many people contributed because they were eager to get a certificate of occupancy.³⁷

A resident who was directing the surveyors said:

We collected the agreed amount from each resident the moment demarcation of his/her plot was completed. Others brought it to me before the work was done, and I remitted the same to the surveyors. A few residents didn't pay for the work. We persuaded ourselves that it was a waste of time to follow them. We therefore asked the surveyors to forget about them. After the survey, they [surveyors] promised to inform us what would happen next. The information in hand at this moment is that the Ministry [of Lands, Housing and Urban Development] has permitted a cadastral survey to be carried out.³⁸

The survey was not, however, merely a mapping exercise; rather, it was planning without planners, because important planning decisions were made and agreed between the residents and the surveyors, while the planners were still waiting for the map of the area to be supplied by the surveyors. What the surveyors handed over to the planners was therefore not merely an updated map of the area, as the planners thought, but what the residents regarded as their plan. This contention is supported by what the survey process entailed and the agreement reached between the residents and the surveyors, as described by the residents:

Resident 1

I participated in the exercise when it was carried out in the whole of this northern zone. . . . It took about two weeks, from the shops to the [sub-ward] chairman's house. . . . The surveyor used to come with his three colleagues [survey assistants], pick me up and then go to the plot to be surveyed. If the owner was there, he would show the experts the boundaries of his land. These were then measured using a tape measure. Where the

boundary between neighbours was not clear, we had to get all the neighbours involved [to show their boundaries]. We did this to avoid conflicts between neighbours and others over land rights. . . . If a neighbour was not available, we took measurements of the neighbouring plots, which automatically gave us his plot area, but, we had to cross-check this with him/her the following day. *If a plot was too big, they [surveyors] advised the owner to subdivide it according to (applicable) plot standard. Where plots had no access, they advised the owners to provide for a road, otherwise, they said, they were not allowed to survey inaccessible plots* [author's emphasis].³⁹

Resident 2

In the process of demarcating plots, they used a tape measure. They took measurements, recorded from here to there is so many feet and so on. They took almost a whole day to demarcate the plots in our area. They were only two. They asked questions such as: 'What is the extent of your area; how big is it?' Then they took measurements. In cases of discrepancy [between what the landowner said and the measurement] they asked why. During the survey, we asked the experts to advise us on how property owners without access could be served. They suggested where roads could be located; for instance, they said [indicating on the demarcation plan] that these houses could have access from this road. [Indicating again on the same plan], from this bar [Miembeni] there is a proposal for a road to join another one along a gully here. Another road will pass near the councilor's house linking with the Kilimanjaro Christian Medical Centre, KCMC road. [To obtain space for the road, again indicating on the demarcation plan] *mzee* Karia has agreed to allow two paces to allow vehicular access. Another access road will be adjacent to Mr . . . 's land, to provide access to Mr . . . and this house which is under construction. Another suggested road would be at Mr . . . , to join the road along the gully. These are some of the roads we agreed to have.⁴⁰

Land surveyor.

. . . I did this work with only one assistant, that's why I know the details of what exists where and was agreed with the people. . . . People were willing to have their plots surveyed because we agreed and promised that their plot boundaries would be demarcated as they are . . . they kept on asking, "Why are you not

putting out beacons?" *I told them, this is only a preliminary survey to demarcate your boundaries. Afterwards we will carry out a final survey and put out beacons, but this will not change your boundaries. The plots boundary and roads/paths [in his preliminary survey plan] are exactly as they are and agreed with the people [author's emphasis].*

By 26 December 1991, the land surveyor had completed the preliminary survey as shown in Figure 9.2. And in a letter headed: "Completion of a survey of Longuo B for purposes of preparation of

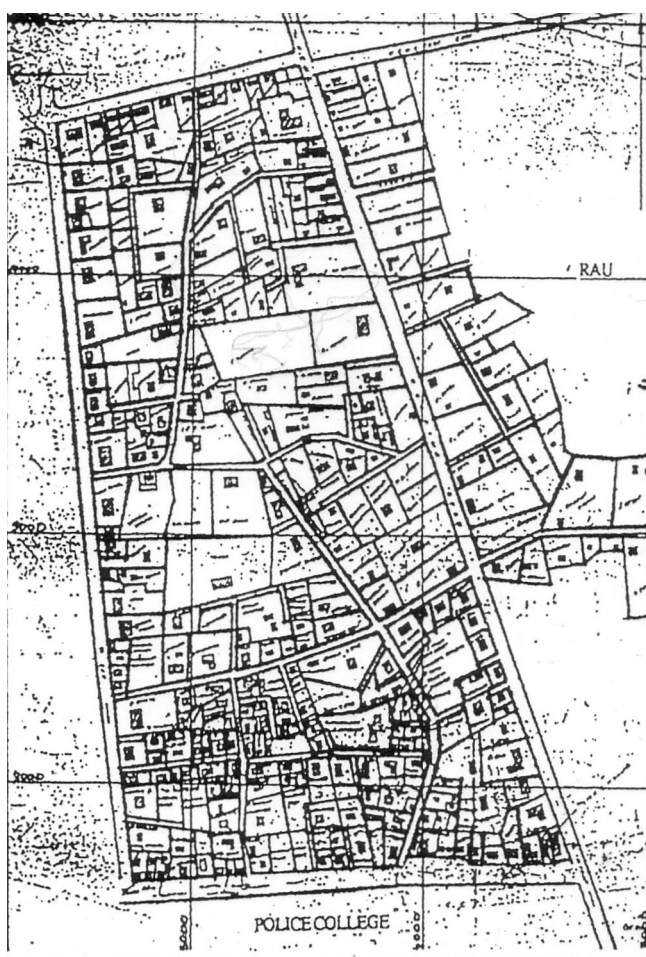


Figure 9.2: Preliminary survey 1991

a map [layout plan]. . .” the surveyor wrote to the Longuo “B” ward secretary, the client, to inform him that:

. . . the whole of Longuo “B” has been surveyed, ready to facilitate preparation of a town-planning drawing and eventually a proper cadastral survey of the area. I am grateful for the good cooperation with the ten cell leaders and other residents of Longuo “B” . . .

Attached to the letter were copies of the preliminary survey plan, which were distributed to the residents who needed a copy. The letter and copies of the plan were also distributed to the regional land development officer, municipal director, and the municipal town planning officer.

Despite the surveyor’s communication to the residents that cadastral survey would follow the preparation of a town-planning drawing, the residents understood and expected to be granted their certificate of occupancy on the basis of the preliminary survey. This understanding and expectation was also confirmed by the planners in the council, who said that after the surveyor had handed them the map of this area, several residents began to contact the council planning department demanding their certificates of occupancy. They thought that the preliminary survey was the final survey. Many went there demanding: their certificates of occupancy. The planner responsible for the preparation of layout plan said: “We told them the survey had yet to be completed. . . .”⁴¹ Whatever the planner meant by this statement, it was not understood the same way by the residents. Subsequently, they continued to wait for nothing more than survey beacons to be put out to show their individual plot boundaries as promised by the surveyor.

Summary

This chapter has shown the residents’ awareness of the need to reshape their built environment through planning. However, they needed this to be done collaboratively with them, primarily to safeguard their land rights, among other interests, which so far have been disregarded by the previous planning intervention. This demand for space in the planning process was done in an organized manner which demonstrates social trust among the residents and capacity to organize.

Unlike the previous scenes which were dominated by protests against planning and confrontations between the residents and operators of the planning system, including planners, we have begun to see planners being invited to do planning with the residents. This is a positive change and a window of opportunity for the planners to influence change of the built environment in the urban fringe where they had been unable to intervene. Through this window of opportunity to collaboratively plan with the people, planners could rebuild eroded social trust and credibility, as well as affording the residents an opportunity to articulate their diverse interests in the planning system. Paradoxically, planners did not recognize and seize this opportunity to do what was expected of them by the residents. They interpreted it simply as any other request for survey permission and thus sat back to wait for a map of the area to be prepared by the surveyors. Afterwards, they could carry on their usual business of preparing a land subdivision plan, and once this had been approved, they would have completed their mission.

The case story also shows communication gap between the planners and surveyors on the one hand and the residents on the other. Whereas understood what they had done collaborated with the surveyor was their plan, on the basis of which they would be issued with a certificate of occupancy, instead, it was a base map to enable planner to prepare a detailed layout plan. In the next chapter we will follow the planners to see the form the planning took and what happened thereafter.

Chapter 10

The Planners' Response

I call a lie: wanting not to see something one does see, wanting not to see something as one sees it . . . (Desiring not to see as one sees, is virtually the primary condition for all who are in any sense party: the party man necessarily becomes a liar.¹

Friedrich Nietzsche

We shall now turn to examine what was done by the planners so that they lost the rare opportunity that was made available to them to address the thorny issue of the management of land-use change in the areas incorporated into the town after the successive boundary extensions of 1973 and 1978. In exploring what they did in this chapter, we shall see what action was taken by the planners and what their intentions were. We shall see who was involved in and who was excluded from the planners' response, whose interests were included and excluded, and how. We shall also see which of the planners' professional and personal interests, values, and ideas influenced the form and content of their decisions and actions in practice.

Planning without the Residents

Upon receiving a copy of the survey plan, one of the council planning officers was assigned to prepare a layout plan for regulating land-use change in Longuo. Preparation of the plan took the whole of 1992 and part of 1993, until 26 May, when the plan was finally presented to the urban planning committee for ratification. Two months earlier, council planning officers realized that according to the council's procedures, they should have obtained a formal instruction from the urban planning committee before preparing the plan. To conform to this procedure, the preliminary survey plan was presented to the

urban planning committee on 15 March 1993, to seek its permission to prepare a plan for Longuo “B”. Knowing how difficult it had been to convince people living in unplanned settlements such as Longuo to accept a survey of their areas and thus the regulation of land-use change in those areas by the council, the committee more than welcomed the initiative taken by the Longuo landowners under the good leadership of their councilor. Subsequently, as recorded in the minutes of the committee meeting, it was resolved that:

- (1) The drawing (preliminary survey plan) is received.
- (2) The councilor and residents of Longuo are congratulated for accepting a survey of their area.
- (3) The councilor for the area should be informed about areas to be designated for basic services such as roads, hospital (dispensary), school, market, recreation, cemetery, etc., so that he can start negotiation with the residents (land and property owners) to be affected.²

Upon probing further into what exactly was discussed by the urban planning committee regarding this presentation of the preliminary survey and what the planners were expected to do, the council planning officer and head of the planning section highlighted the issues raised during the presentation of the preliminary survey plan as follows:

We told them [members of the urban planning committee] what we intended to do, that from then on we would prepare a drawing according to standards so that it can be approved by the ministry [director of urban development]. We needed that approval, otherwise the applicants could not obtain permission for a survey. Then the councilor for Longuo asked: “In preparing this drawing [*mchoro*], will you consider the people living in the area?” We said, we would do so, but that there would be some changes. . . . For instance, it may be necessary to change their plots from the present irregular to a regular shape. He then remarked, “If this is so, does it mean that the boundaries of individual farms will change?” We said yes, otherwise it would be impossible to find space for public facilities such as roads. . . . Then the councilor said, fine, if it is for roads we have no objection. We added that there are also community facilities needed in the area, which should obtain space from this same area. *I remember*

*this discussion vividly, because the interest of the landowners was in maintaining the boundaries of their farms as demarcated in the preliminary survey [authors' emphasis].*³

Although the layout plan was being finalized after being on the drawing board for over a year, not until then did the planners receive the necessary formal instructions to start preparing the plan. Given that the plan had already been prepared, it is doubtful whether the apparent interest in maintaining the boundaries of individual plots was accommodated in finalizing the plan. Moreover, it is obvious that this interest was in conflict with the need to secure space for roads and community facilities. I shall return to this shortly to see what the planners did to mediate these conflicting interests.

The main objective of the layout plan, according to the planning officer assigned to carry it out, was to address the problem of accessibility to all plots. He said that in their view, although there were roads and footpaths in the settlement, they were too narrow and uncoordinated. They therefore decided among themselves, without consulting the landowners, to extend the rights of way over existing footpaths and motorable paths from their various sizes to 10 metres. Another problem was the irregular shape of the plots, something which the planning officer thought would pose a problem in enforcing development conditions along building lines. Responding to a question from the author on the planning problems he had had to address and the objective of the layout plan, the planning officer said:

... the main problem (in Longuo "B") is accessibility ... when most property developers built (their houses), they did not block roads, but the fence around their plots has made the roads narrow. Therefore, we could widen them with the least problems. ... We have thus decided to extend the width of the roads to ten metres. With respect to plot size, we decided not to have equal sizes because the existing plots varied according to the concentration of houses, but we tried to obtain rectangular plots. This would facilitate control of growth ... and adherence to allowed set backs ... [otherwise] to control development on an irregular plot is very difficult.⁴

The problem of accessibility that the planning officer mentioned was perceived by himself in the context of the planning standards in

force and perhaps the notion that each plot had to be accessible by vehicle. During fieldwork, I was able to drive along most of the roads which the planning officer thought were not wide enough. Moreover, judging from my surveys in the area and interviews with residents, accessibility was not considered a problem at all. Despite this, however, widening the right of way of the roads could be justified by the space needed for, among other things, lateral drains, sewerage, water pipes, and electricity lines.

Although the planning officer claimed not to have striven for equal plot size, plot subdivision as indicated on the layout plan shown in Figure 10.1 suggests otherwise, and plot size appears to be different from those indicated on the preliminary survey plan shown in Figure 9.1 in the previous chapter. This should have been expected following the extension of the existing primary school plot, the designation of a plot for a local market, the widening of existing footpaths and motorable paths to 10 metres, and the provision of new access roads. As the proposed residential use was in conflict with the 1974 Master Plan, which zoned the area for institutional use, the planning officer had to justify the change of use which the proposed residential layout plan entailed. Accompanying the layout plan was therefore a planning brief which stated that:

The Moshi Master Plan 1974–1994 zoned that area [Longuo “B”] for public functions The area is not being used for public functions as envisaged, because (already in 1973, at the time of preparation of the master plan) there were many houses which, if demolished, would entail high costs of compensation. The office (council planning department) proposes a change of use for that area from public to residential use to avoid the said compensation and preserve existing permanent buildings.⁵

As a piece of planning rhetoric to show that the proposal accorded with master plan standards – even if, as the planning officer said earlier, this was dictated by the density of houses in a particular area – it was stated in the planning brief that:

... Plots of different sizes are suggested following standards stipulated in the Moshi Master Plan 1974–94: high; medium; and low density. Plot size ranges between 400 and 2,400 square metres. Because of the existing development, (however), most plots are

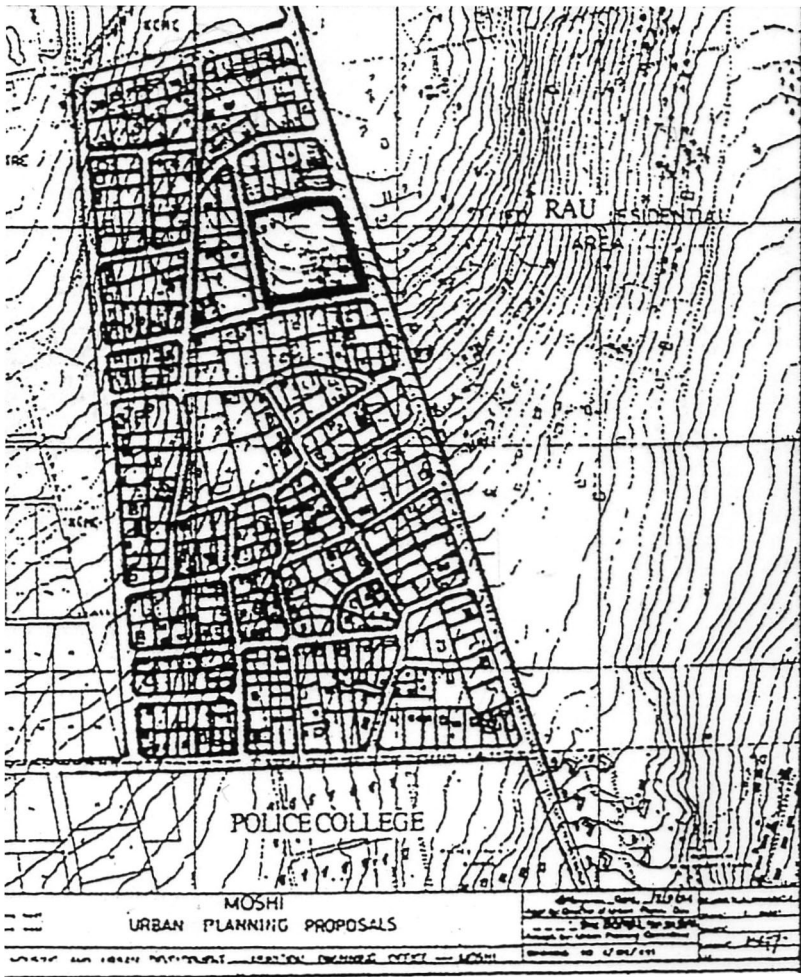


Figure 10.1 The planner's approved plan

of medium density. The proposed mixed density has been necessitated by the fact that there are many permanent houses (in the area) ... (And) for this same reason of density, some of the proposed plots contain two or three houses belonging to different landowners.... The size of roads has (also) taken into account the situation existing in the area ... minor roads within the area have a right of way of ten metres. Moreover, the plan ensures accessibility for each plot....⁶

The proposed plot sizes, wider right of way for existing roads and space designated for other public functions such as markets entailed an arbitrary redistribution of and encroachment upon individual landownership rights without the express consent of landowners. Implicitly, this meant that some landowners would be losing part of their land to serve the community and private interests of their neighbours. Negotiations with land and property owners on this sensitive process of readjusting land rights did not worry the planning officer because he believed that the council would be able to use force to implement the plan. This conscious exclusion of land- and property-rights holders in reaching such radical decisions was carried out by the planning officer in the belief that in cases of objection from the people, the council could use force to implement the layout plan.

... Of course we didn't like to talk to them [the land and property owners]; we decided to prepare the layout plan, and *inform them after carrying out the survey*. In case of objections, we *could use our tricks*. You know, *we can use force* [author's emphasis]. The important thing was to have a map of the area and to prepare a plan....

It is true that their [plots] boundaries are irregular ... [while drawing up the plan] *consideration of their boundary was small ... what will happen* (during implementation) *is that portions of land from one landowner will go to whoever is his neighbour* [author's emphasis]. This is mostly for landowners whose plots are of triangular shape. We designed plots of rectangular shape ... and we want the survey to be carried out accordingly. It is up to the people to agree and compensate each other.⁷

The planning officer knew very well that by altering plot boundaries, he would cause conflicts of interest among land and property owners. And it appears that he expected resistance from the property owners affected. This did not bother him, because force could be used to suppress such resistance. Alternatively, he described the planning department's strategy to ensure that implementation of the layout plan proceeded as they expected:

... In order to ensure that the survey is done according to the layout plan, we will discourage [the granting of] survey permission to individuals, because if we don't, applicants will survey

their own piece of land following their own boundaries. . . . What we normally do when an individual applies for survey permission is to tell him or her to go back and mobilize his/her neighbours and form a sufficiently big group . . .⁸

This strategy apparently did not ensure that surveys were conducted according to the layout plan. Once a survey permit had been issued, it is difficult to see what could stop landowners surveying their plots according to the existing boundaries. A practical example in support of this was seen in the previous chapter, where despite the existence of an approved layout plan for Mji Mpya, a group of landowners managed to survey their plots by following the boundaries of those plots. It appears from this that because of the planners' failure to take existing realities into account, the planning department instituted a bureaucratic bottleneck in the planning system, which they thought would force implementation in the direction they wanted. Relying on this bureaucratic bottleneck not only delayed land registration, it also undermined the whole essence of planning as a mechanism for ensuring efficiency in land development. Responding to a question from the author as to how he expected landowners to react to the proposed readjustment of boundaries of their plots and the altered size, the planning officer admitted that there would be complaints from the owners, that "... my piece of land is smaller than before".

Author: Having lived as good neighbours for a long time, landowners may perceive your proposal as a tool for antagonizing them. They therefore may decline to accept a proposal which entails losing to or gaining from a neighbour, especially when the gain is less than the loss. How will you resolve this problem? Also, knowing that no compensation is paid for land, what will be the reason for certain landowners surrendering part of their land for the proposed widening of the roads?

Planner: The councilor offered to educate the people about this.

Regarding what he would tell the landowners if asked to justify the standards used for plot sizes, the planning officer said that his response would be: "Based on our expertise, we found it fit to design the plots according to certain standards, rather than leaving them as large as their original plot."⁹ Finally, the planner said, "Normally there will be no objection, unless a piece of land goes to another owner." It follows

from his statement, therefore, that since the plan proposed a readjustment to plot boundaries, losing and gaining land to and from a neighbour, respectively, would be obvious, and hence he expected objections from the land and property owners affected. This shows that the planning officer knew the fate of the plan before hand, as he himself confirmed as the interview proceeded. I shall return to this later.

Seeing the layout plan for Longuo, the land surveyor who carried out the preliminary survey was amazed by the changes the planning officer had made to the preliminary survey plan. He had seen the planning officer preparing the plan and cautioned him against making changes to it without consulting the landowners. Responding to the author's question concerning his opinion about the plan and the way it had been prepared without negotiations with the landowners concerned, the surveyor remarked:

... I think the planner has created more problems than there were ... There was no need to change this layout (pointing at the preliminary survey plan) ... what they have done here (pointing at the layout plan) is to change the people's plan. ... I cautioned the planner that what he was doing was contrary to people's expectations. ... Because of the discrepancy between this layout plan and the preliminary survey plan, I would not dare go back and carry out the final cadastral survey. People will not understand me ... (just as) they will not understand any other surveyor (who carries out the survey according to the layout plan).¹⁰

The surveyor's remark about the layout plan and the likely problems involved in carrying out the final cadastral survey suggests the problem of implementation which the planning officer also mentioned. I shall return to this later. His caution to the planning officer did not, however, matter, because the layout plan had been finalized and presented to the urban planning committee, as will be seen in the next section. An interesting question here is, how is it that these two experts behaved so differently on this issue? The surveyor, having been involved in the exercise, demarcating each plot as shown by the rights holders of the land and providing space for roads as agreed among neighbours, should have had a better understanding of the meaning of each line on his drawing. On the other hand, the planner, having chosen to wait for the preliminary survey plan in his office, attached very little meaning to these lines, which is why he dared to change the survey plan arbitrarily.

Approval of the Planner's Plan

On 26 May 1993, Layout Plan No. 4/179/893 was presented to the urban planning committee and quickly ratified. This was despite the discrepancy which existed between this plan and the preliminary survey plan. As will transpire later in the story, besides the fact that the plan was unexpected by the landowners, it entailed changes which conflicted with their interests. The planners managed to get it ratified for several reasons. First there was no serious scrutiny of the plan by the committee, because most of its members could not read or understand the plan in the technical form in which it was presented. Secondly, its presentation was very superficial. To confirm this, the planner responsible for making the plan said:

In fact there was no real presentation; they [councilors] did not ask many questions. We showed them the drawing, but they could not comment much. They couldn't understand it. . . . It is only a formality that we have to present [plans] to them to get their ratification.¹¹

This was confirmed by another council planning officer, here referred to as planner 2:

The presentation was done as usual to tell the councilors that this is a layout plan for Longuo, these are roads . . . but I don't think they understood the drawing . . . there was no problem, it was swiftly ratified.¹²

This planning officer claimed that given the fact that most councilors do not know how to read a map, there is normally a communication gap between them and the councilors when it comes to scrutinizing plans. Subscribing to Becon's contention that knowledge is power,¹³ in this case the planners simply overpowered the councilors. Worse still, depending on what is at stake for the planners, they used their expertise to block communication between themselves and the councilors by making complex plans which the councilors could not easily understand. Following Forester's suggestion that information is a source of power,¹⁴ it is apparent that in this case, the councilors' power was reduced even further by professional mystifications deliberately created by the planners. Beyond the question of knowledge,

however, having a vested interest or not in the plan being presented might make the councilors active or passive. Revealing the circumstances under which councilors ask or do not ask questions and the strategies used by the planners to overcome the former if objections to a proposal were anticipated from them, the planning officer said:

If you prepare a complicated drawing, they don't understand it, but if you prepare a simple one, they might ask questions. Moreover, when they have no vested interests, they don't ask questions. But if they have an interest [in the plan], such as markets where they can have room to put up kiosks, they will ask "Where is it, how many spaces for kiosks?" Otherwise they will not ask many questions.... If we think that what we want to submit will not be objected to, we normally give them reports to read at home before the meeting....¹⁵

Author: What was the reaction of the councilor for Longuo about the houses that had to be demolished?

Planner 1: He already knew that some houses would have to be demolished. Therefore he did not need to react.

Author: How did he get that knowledge?

Planner 1: Of course, during the presentation I told them that a few houses would be demolished. I would provide a report (about this) later

Author: What do you think would have happened if you presented the plan to the landowners in the area?

Planner 2: They would ask, -Where is my plot, show me, where is the market, school, etc.? ... We experts, once we have presented a plan to the urban planning committee, we assume that we have presented it also to the people, because they are represented by their councilor.

Author: Given that you would expect questions from the landowners, what is your view about presenting the plan to them?

Planner 2: In my opinion if it is possible we should present the plan to the people on the site.... Many big changes are indicated on the plan.

Author: Why, then, didn't the planning department do what you are suggesting?

Planner 2: We have never done it before, that would be the first time. We normally depend on the councilor for the area to communicate with the people.¹⁶

During ratification of the plan, the urban planning committee gave instructions that ward leaders in the area should enforce development control to ensure that areas designated for public facilities and other public uses such as roads remained un-built. It was further resolved that a land ranger from the council be assigned to monitor land development in the area at least twice a week.¹⁷ According to interviews with the planners and land rangers assigned to the task, attempts to implement this resolution did not succeed, because land and property owners claimed to be building on land they had acquired through customary land tenure. On the other hand, the ward executive secretary in Longuo claimed that they were able to enforce certain development conditions, as they used to even before this resolution was passed. For instance, he said, they ensured that no developer encroached on spaces intended for community facilities such as market, primary school, existing roads and footpaths.

Moreover, he said that although they could not prevent landowners subdividing and selling land, all land transactions were reported and sanctioned by the ward office. Landowners, he asserted, were required by the traditional system to respect the existing circulation network and areas for common facilities. As reported by one of the oldest landowners in the area, these traditions began to disappear when Longuo settlement was annexed to the municipality. From that time on, he claimed, people started selling land to new and non-indigenous developers, a process which has increasingly intensified with time, so that formerly existing footpaths across individual farms have been closed. It is instructive to recall here that under the traditional Chagga land-tenure system, whereas land belonged to the community, an individual's rights to land were limited to use rights. Under this arrangement, it was possible for one to have the right to use the land for agriculture, while others had a right of access across the same piece of land. As beautifully expressed by the same old landowner in Longuo:

Nobody was denied right of access, because we all pass over somebody's land to get to our homes. With the coming of the town, we have new developers who have brought with them fences around their houses. These have blocked the traditional footpaths, so that if I wish to visit a neighbour, I am forced to go all the way around....¹⁸

On 9 August 1993, the council planning officer submitted the layout plan of Longuo “B” to the regional town planning officer, who, after scrutinizing it, forwarded it together with his comments to the director of urban development in Dar es Salaam.

Author: What were the comments of the regional town planning officer?

Planner: He checked whether we had followed the standards ... I had earlier presented to him ... you see these roads are not so wide ... we considered accessibility ... some plots are very big and some very small depending on the available area ... where the area was large we proposed large plots, where the area was small we proposed small plots. He said, “Fine”...¹⁹

Afterwards, on 9 September 1993, the plan was forwarded to the director of urban development in Dar es Salaam for approval so that a cadastral survey of the area could be carried out. In a letter under the heading “Approval of TP [town planning] Drawing No. 4/179/893 (Longuo ‘B’) Moshi municipality”, the planning officer informed the director that.

... the main emphasis was to provide accessibility and secure enough land for the primary school and a small market, otherwise the area is heavily built ... you are kindly requested to approve the layout so that proper survey may be carried out.²⁰

The plan remained in Dar es Salaam until May 1994, exactly one year after being ratified by the urban planning committee. Meanwhile, the council was wondering what was happening that the plan was taking so long to be approved. On 24 January 1994, having waited for about 5 months after submission of the plan to the director of urban development, the urban planning committee resolved to proceed with implementation of the layout plan, otherwise the plan would become increasingly obsolete, as land subdivision and the construction of new houses were proceeding in an uncontrolled manner. It was recorded in the minutes of this urban planning committee meeting that:

The town planning drawing forwarded to the ministry has not been approved. The members expressed their concern in connection

with the delayed approval of the plan and worry that the more the survey of this area is delayed, the more developers continued to encroach and build on vacant areas designated for public use, such as roads, etc. Resolutions:

... (1) Because Longuo "B" is heavily built, and since the proposal is an upgrading plan, the ministry is not expected to disapprove it. Surveyors should start survey of "blocks" and indication of (right of way of) roads.

(2) The ward leaders should stop developers who are encroaching on such areas.

(3) One land ranger from the (urban planning) department should be present in the area at least twice a week to prevent the invaders.

(4) After the survey (of blocks and indication of right of way of roads), a council grader should be used to clear the roads.²¹

It is a common practice that once a layout plan involving the allocation of plots has been submitted to the director of urban development, planners conduct a follow-up to speed up the process of approval. As will be seen later in Chapter 11, not only planners, but also other senior government officials responsible for land administration personally follow up plans and lobby for them in Dar es Salaam to try and ensure their early approval. In the case of the Longuo plan, neither the planners nor any senior official seemed to have had any interest in doing this. In an interview with the councilor for Longuo and the council planning officers, they all contended that the failure to follow up approval of the plan was because none of those who could do so had an interest in the plan. In April 1994, before the plan was approved, I enquired from the planner in the directorate of urban development who was responsible for Moshi Town plans why the Longuo plan had not been approved. He admitted that the plan had been lying in the urban development directorate since it had been received in September 1993, because certain amendments had to be made by the council planning officers before it could be approved. However, while the council planning officers kept waiting for approval, the planning officer responsible in the urban development directorate had not informed them about these amendments. They were waiting for the council planning officers to appear in the directorate to be asked to amend the plan. I shall return to this in the next section.

Meanwhile, responding to the decision by the urban planning committee to commence a survey of plots in Longuo 3 weeks later, the council land surveyor mobilized his technicians and equipment to start cadastral survey work in Longuo.²² Survey permission, which is normally issued by the regional surveyor, could not, however, be obtained because the plan had not been approved. This meant that the surveyor would be carrying out the work informally, something which was risky if there was any trouble, which there was as soon as the surveyor commenced the work. A landowner where the survey began protested against the survey because of the discrepancy between his plot boundary and the one that was being laid out by the surveyor. Knowing that he was conducting the exercise without the permission of his regional boss, the surveyor quickly withdrew from the field before further troubles occurred.

In the early May 1994, following immense pressure from the council of Longuo, the planning department decided to send the planning officer responsible for the Longuo plan to Dar es Salaam to follow up approval of the plan. The planning officer remained in Dar es Salaam for 2 weeks and finally secured approval of the plan on 5 May 1994. This plan would supersede the 1985 plan. Before it was approved, the planning officer was instructed to make several changes to it. Among the changes suggested were an extension of the area set aside for Sokoine primary school to 2.5 hectares in conformity to the planning standards then in force. The required changes forced the planning officer to go back to the drawing board in the ministry and rectify the layout plan to accommodate the suggested changes. Describing what transpired in the approval process, the planner said:

... There were three issues ... they asked me, "Why was it necessary to demolish so many houses?" I said that this was a cartographic error. [Surprisingly] this was not raised in the region [by the regional town planning officer who forwarded the plan to the director].... The next thing was the big plots which I had not subdivided into smaller plots because they had certificates of occupancy [having being surveyed as farms] ... I had to subdivide them. The third issue was area for the primary school, which is now 2.5 hectares [after extension as required by the ministry]. I argued that if they wanted me to extend the area, this would

mean acquiring the surrounding land, which implies large-scale compensation. They instructed me to extend the area and they ignored the issue of compensation. These were the issues which delayed approval. . . . Sometimes once they [approving authority] have decided, you cannot change them, because what you want is to secure approval (of the plan) and go back. If you argue (with them) you might go back without securing approval of your plan.²³

While the planning officer was busy preparing the layout plan, local leaders in Longuo realized that the existing primary school plot size was inadequate. In trying to address this problem, and led by the councilor of Longuo ward, the local leaders negotiated with a landowner adjacent to the school to take part of his land for the school extension. The landowner agreed to offer 1.5 acres of land on condition that the councilor for the area secured him alternative land from the council. Paradoxically, the planning officer, although aware of this arrangement, proposed extension of the school on a site other than that negotiated for the purpose. The alternative site preferred by the planning officer, though located on the same farm which the landowner had offered a part of for the school extension, would entail moving the landowner's expensive house as well as his late father's grave. The planning officer's proposal would also have involved moving other neighbouring houses, as shown on the Longuo layout plan. In an interview with the planning officer, he justified his unnecessarily conflictual proposal as follows:

Author: Were you aware of the arrangement between the local leaders in Longuo and Mr ... who had offered his plot for the school extension?

Planner: Yes, but, they [the planners in the ministry] asked me, if there was such an arrangement, why didn't I show it in my proposal? ... I argued that even if I showed it, [the school plot] would still be less than the required 2.5 hectares. . . .

Author: Given that the school exists in a built-up area, was it really necessary for the plot to be 2.5?

Planner: That is how they (the planners in the ministry) wanted it to be.²⁴

The “Cynic Planner”

Although the planning officer put the blame on the plan-approving authority in the ministry, the layout ratified by the urban planning committee shows that it was actually he who had decided in the first place to extend the school plot on the site in question. What the planners in the ministry did was to suggest an extension of the area beyond the encroachment which the council planning officer had already proposed, so that the size of the school plot would ultimately be 2.5 hectares.

Moreover, while it was easy to put the blame onto others, eventually it was he who would be accountable to the council and the landowners in Longuo. Continued interviewing of the planning officer revealed that he was not happy with the extension of the school on the plot offered by the landowner, simply because the shape of the school plot would not please his eyes.

Author: Ultimately, however, you are accountable to the landowners and the council for this plan. How would you justify to the residents of Longuo and the council this proposal to move a landowner who had already offered his land for the school extension, knowing also that this move would require the council to pay him compensation for his house and other properties on the land?

Planner: I would tell them that the area for the school was not adequate ... extension of the school on the area which he has offered for the school extension will make the shape of the school plot look bad, like a – *samosa* – triangular ... not beautiful ... not according to standard This is a problem of reality and standard. Which is which now? Do I stick to the standard at the expense of implementation or stick to reality for the sake of implementation?

Author: What do you think?

Planner: It is better to stick to reality so that the plan materializes ...²⁵

That was the dilemma underlying the planning officer's action. He knew what the reality looked like and what it meant for implementation. He was, however, overwhelmed by his own perception of beauty,

which he eventually conceded was an abstract concept perceived by himself because he was working with a two-dimensional drawing. This planning officer fits very well the cynic type of planner described by MacNeil, "who is aware that the practice is very different from the theory, and that the plans they prepare will never become reality."²⁶ As the interview proceeded, however, the planning officer revealed another important driving force for his eventual decision and action.

Author: Why, then, have you chosen to stick to the standard instead of to reality in the present case?

Planner: You know that sometimes, when you want your work to go through smoothly, you have to satisfy these people [planners in the ministry]. . . . Whatever good reasons I might give them, I would be forced to go back (with an unapproved plan) if I did not accept changing the area for the primary school (to 2.5 hectares) . . . I decided to get approval and therefore increased the area for the primary school. And this is the reality Of course I knew what would eventually (during implementation) be possible or not . . . I could (stick to my guns and) come back with a un-approved drawing, but if I did so, here in the council, I would have to be careful I asked myself, what do I gain (by being realistic)? . . . I made the changes required and got the signature (of the director of urban development). . . . Another reason which influenced my decision to ensure that the plan was approved is that *what matters is how many approved plans have you prepared* If your name does not appear on any of them Therefore, I finally decided that I should secure approval of the plan, so that in the ministry they could say, look, this layout plan was drawn by You should therefore strive to make a plan which gets approval.²⁷

However, it was not only a question of professional self-interest: the planner understood very well that he was fighting a war that had already been lost. This is because, by that time, almost 3 years after the preliminary survey had been carried out, there was no way that the plan could have been implemented without major changes. The approval that was sought was therefore a mere administrative formality. So why spoil your career for something that is not going to matter any

way? This seems to have been the big question for the planning officer, who eventually conceded:

... I know implementation of this plan will be problematic During the (final cadastral) survey this plan will change a lot Remember that this plan was ratified by the council in May 1993. It was approved a year later (almost 3 years after the preliminary survey)... . We have tried (in vain) to control development (in the area), but developers claim that they are building on their farms²⁸

Expanding on the issue of development control, the planning officer sidetracked the story and recalled the recent past, when they really exercised powers of development control. Those powers, the planning officer remarked, have since been eroded by a lack of support from the politicians.

... Nowadays we are a little bit soft. There were times when we were very strict. When I was leading an operation carried out in 1990 in Mji Mpya, we demolished nineteen houses... . What made us succeed at that time was the support we got from the [Mji Mpya] party chairman.... The developers went to the Regional Commissioner and the District Commissioner to complain ... they were allowed to continue building. This discouraged us...²⁹

Finally, the planning officer admitted that the residents of Longuo did not know there was any plan apart from the preliminary survey. Some knew that a drawing had been sent to Dar es Salaam for approval, but they thought that this was the preliminary survey or their plan.

Author: If you knew that people were ignorant of the plan and that they were expecting survey beacons according to the preliminary survey plan, since you secured approval of the plan, what efforts have you made to bridge this knowledge gap and thus facilitate implementation of the plan?

Planner 1: None, because we have no money to carry out the survey.³⁰

Whether they had money for a survey or not, if planners were really serious about implementing their plan as it was, here they were being

confronted with a challenge to negotiate the changes which the plan entailed with the land and property owners affected. If the planners do not take the initiative in negotiating with the landowners, it is likely that survey beacons will be put out in line with the preliminary survey – the people's plan. If this happens, the planners' plan will have been reduced to being a means of obtaining a survey permit, not a tool for regulating land-use change. After all, given the current non-availability of public sector resources for surveying, the experience of the 1990s shows that it is the individual landowners who pay the costs of having their plots surveyed.

Although the planners understood and accepted that it was important to involve people directly in planning rather than through representation by councilors, as is usually done today, how to do this remained a nightmare to them because they had never tried it before. This became clear in an interview with the head of the planning section in the planning department, who argued that:

... It is not easy to sit around a table with people and prepare a plan with them ... because nobody will agree to seeing their own plot of land being chopped off (for a road, school, etc.). Therefore, to involve them (people) directly will make planning take a very long time....

Author: What is the better option, for planning to take a long time and to matter as intended or for it take a shorter time and not matter as intended?

Planner: Of course, the second option is better.

Author: Do you think representation by a councilor is the same as self-representation?

Planner: No, because the councilor may report things differently to the people being represented.

Author: What would happen if you presented the layout plan to the people of Longuo?

Planner: Everybody would be curious to know what was proposed where. And this is what I am saying will take time. I don't think we would reach a consensus.

Author: What do you think would result from the people's curiosity?

Planner: In the end we would understand what they wanted, but I am not sure whether this would constrain our planning.

Author: In which ways, for instance?

Planner: Some would say we don't want this, and another could say the same. If you listen to them and follow what they want, you may end up with a plan without any adequate facilities and lacking many basic things.³¹

Like her colleagues, this planner admitted that implementing the survey according to the layout plan would be problematic because nobody would accept the reduction of their own piece of land for whatever purpose. "Maybe we have to educate these (Longuo) people to make them aware of what is going on. Otherwise, if we send in surveyors there they will be snubbed."³² Based on the fact that the landowners paid for the preliminary survey and that they were waiting for survey beacons to be put out according to their plot boundaries, this remark by the planner is no exaggeration of what could happen. By 15 September 1996, the council had still not surveyed plots in Longuo as planned, though the head of the planning department expected this to be done in the near future. In a brief discussion with the sub-ward chairman, he claimed that a group of landowners were planning to approach a surveyor to survey their plots as they were. He also showed the author one example of a land-use change which had taken place contrary to the plan. In one instance a property owner whose expensive property had no convenient access road had negotiated with neighbours and bought land for an access road of about 100 metres long by 4 metres wide.

Paradoxically, despite the pessimism expressed by the planners about the implementation of the layout plan with regard to the demarcation of plots, roads, and other facilities, planners were patting themselves on the back, thinking that what they had done was a lot different from the previous plans, whose implementation had failed or caused widespread disputes. They were optimistically looking forward to seeing what would happen with implementation, because if they succeeded it would set a precedent and represent a breakthrough in the thorny issue of growth management in fringe urban areas. Revealing this expectation, the planning officer remarked, "If we succeed in the implementation of this plan for Longuo, it will be a breakthrough, because we can use the same approach in Msaranga." This expectation contradicted the pessimism expressed by all three of the planners interviewed. It is also in a way outrageous, given the discrepancy between the Longuo plan and the expectations of the landowners in Longuo, whose objections were indicated when the final survey was attempted. It is, however, confirmation

that the planners had not yet realized what underlie the ineffectiveness of their planning efforts.

Summary

This chapter has shown how, based on the survey plan, the planners prepared a layout plan, so that what the Longuo residents regarded as their plan as agreed on the spot with the surveyors was actually a base map to facilitate the preparation of a layout plan for the area, in pursuit of given planning standards and professional norms. This was done without prior consultation with the residents, even though it involved the readjustment of boundaries of individual landholdings, the widening of paths and roads, and the provision of new ones, the extension of the school site, involving the shifting of properties and land rights, and the disregarding of prior negotiations and agreements between local leaders and landowners. Despite the sensitivity of such changes and their adverse effects on the interests of the stakeholders, the latter were excluded from the planning process. The fate of their interests was thus exclusively decided by planners guided by technical standards and their own professional and personal values. Potential conflicts were certainly embedded in the plan, but nevertheless it was swiftly ratified by the urban planning committee, of which the councilor for Longuo ward was a member.

It is evident from this case that the urban planning committee, which was assumed to represent the interests of the people, was hardly able to challenge the planners. It appears that the presentation of plans to this committee is done very superficially, as the planners confirmed, because the committee members can hardly read the technical drawings as presented. This, as the planners further admitted, is a strategy designed to mystify planning even more, so that they can conveniently pursue their interests in the planning system. Moreover, we have seen that despite this representation, Longuo residents remained unaware of what exactly was going on in terms of planning. They were left assuming that it was the preliminary survey which had been sent to Dar es Salaam for approval. All these happened because there was no communication whatsoever with those with interests in the land that was affected. The planners relied on the councilor for the area to do this as their link with the rest of the Longuo community. The question is, to what extent was this councilor able to communicate planning

ideas correctly to the residents and their reactions back to the planners? Given that drawing up the plan would necessitate extensive negotiations and agreements with the stakeholders, this would definitely have been a heavy task for the councilor to handle alone. And if he could undertake this communicative form of planning, what, then, is the purpose of having the planners?

We have also seen that the approval of the director of urban development took about 9 months, apparently because of lack of follow-up by the council planners as well as lack of communication between the approving authority in Dar es Salaam and the council. It was evident from the discussion with the councilor for Longuo that as there would be no plots for allocation, nobody was really interested in doing a follow-up. To support this view, the councilor contrasted this with close follow-up made for the change of use and layout plan for the psychiatric institutional area and the TEXCO plot to be examined in the subsequent chapters. However, while we may accept the foregoing explanation, this chapter has shown that for personal reasons, the planning officer had an interest in getting the plan approved, although he knew very well that implementation would be problematic or contrary to the plan. After all, who in the planning system minds if implementation does not materialize according to the plan? One's promotion certainly does not depend on how many implementable plans one has produced, but it may be determined according to how many approved plans one has produced. As the planning officer confirmed, this appears to have been an important contextual factor influencing his professional practice behaviour.

The main problem which seems to underlie planning practice is that built-up areas, where land is held under the customary-tenure system, are treated the same way as undeveloped or green field areas. In such areas, planning is simple and limited to plot-subdivision, the only constraint, if any, being topography and other landscape features. However, in built-up areas such as Longuo, interests are numerous and diverse. There is no way that planning could successfully be done by excluding those with interests in the area. This lesson seems not to have been learnt by the planners, who depended on the system of representation by councilors and avoided direct communication with the people. As the planners conceded, participation by representation was not the same as direct participation, given the diverse interests in place. Moreover, there is a risk of misinterpretation, distortion of information and a gap in communication. All these seem to have been



Plate 10.1: Spatial development proceeds contrary to the planners' plan

common knowledge to the planners, but they refrained from carrying out planning in a participatory manner. Planners depended on what they thought was good according to their professional ideals and personal values, and thought that their reasoning should be accepted by

the people they were planning for. This type of planning practice and planners' professional behaviour blends well with the functional rationality, grounded on "logical positivism and deductive reasoning", which underpins the legacy of a comprehensive rational model of planning.³³

One thing which keeps recurring in all the narratives of the attempt to regulate land-use change in Msaranga, Mji Mpya, and Longuo is that the boundaries of landholdings were not perceived to be an issue by the planners. And yet this is the hinge around which residents' uses and the exchange value of the land swings. Planners' insensitivity to this particular aspect of residents' interests in land was due to a lack of appreciation of residents' rights and interests in land. Planners' insensitivity was rooted in the notion of zero value of land which pervaded planning practice in Tanzania until 2002 when the Land Act No. 4 of 1999 was put to use replacing the Land Ordinance Cap. 113 of 1923.³⁴ Contrary to this official position, however, landowners perceived land as personal property, with both socio-cultural and economic value. Moreover, planners and other land administrators, like everybody in Tanzania, recognized that land had exchange value. This gap between the official frame of reference and the reality acknowledged by everybody provided room for corrupt land-administration practices and rendered land-use planning a mockery.

Chapter 11

Rationalization of Change of Use

*Rationalization presented as rationality is a principal strategy in the exercise of power. . . . The freedom to interpret and use “rationality” and “rationalization” for the purposes of power is a crucial element in enabling power to define reality*¹

Bent Flyvbjerg

*Politics is winning and losing, which depend, mostly, on how large and strong one side is relative to the other. The actions of politics consist in making agreements to join people in alliances and coalitions-hardly the stuff to release readers’ adrenaline as do seductions, quarrels, or chesses.*²

William Riker

Following residents’ protests against planning that was insensitive to their rights and interests in land, the change of use of land designated for public use became a trend in land development in Moshi municipality in the 1990s. Within that period there had been several successful and unsuccessful attempts to take such land to meet private or semi-private interests. This chapter explores two such instances of change of use. In doing so, we shall see the driving forces, the actors involved and their interests, the alliances they formed amongst themselves, the strategies they used to pursue their interests, and the powers and resources they used. We shall also see who benefited and who lost in the process.

Moves to Expropriate Land

Before going more deeply into the two examples, however, we shall make an excursion into all the major successful and unsuccessful attempts that occurred during the 1990s. The first attempt began in 1991, when the land allocation committee initiated a process for a change of

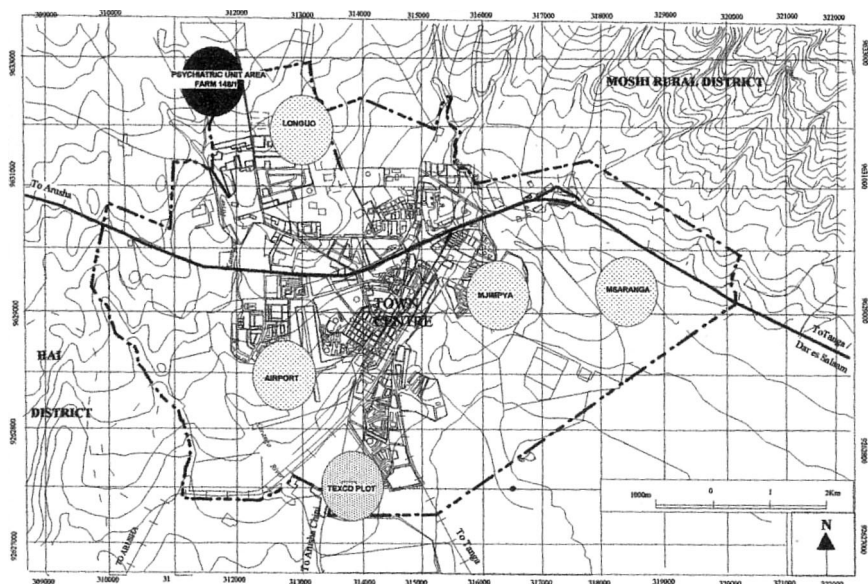


Figure 11.1: Farm 148/1 – Psychiatric unit sub-case study area

use for land previously allocated to the Ministry of Health for a psychiatric patients' institution back in 1975 to be used for “quiet residences”. A detailed account of what transpired in this case will be covered in this chapter and the following one. This case was immediately followed by an abortive attempt to invite private businessmen to use the *Uhuru* park for commercial purposes in the name of the park’s “rehabilitation”, ostensibly because the council did not have the financial ability to do so. This move, which originated with certain top officials in the council, was stopped after intervention by the regional commissioner, who was also the assistant proper officer for local government in the region.

Afterwards, a third attempt was aimed at changing the use of 70 acres of Karanga prison land from institutional to residential use. This idea was hatched in the regional land allocation committee. It was then taken to the urban planning committee, which approved the proposal. Strong objections by the Ministry of Home Affairs saved the prison from losing its land to the would-be beneficiaries of the residential plots.

The latest example of this practice of land-grabbing involved a change of use of 22.05 hectares of industrial plot No. 76 block “JJJ”. This plot was originally allocated to the state-owned textiles corporation

TEXCO for the construction of a textile factory. While the corporation was in the process of finalizing its investment for the planned factory, the allocation was revoked and the plot reallocated for a greenhouse, among other institutional uses. This happened despite appeals against the revocation from the textiles corporation. We now turn to a detailed account of the change of use of land designated and partly developed for a psychiatric institution.

Expropriation of Land for a Psychiatric Institution

Exactly 1 month before the approval of the Moshi master plan, on 25 August 1975, the regional medical officer submitted to the district land development officer an application for a piece of land to establish a settlement for psychiatric patients. On 11 September 1975, the district land development officer wrote to the regional land development officer to inform him that he had received an application for land from the regional medical officer asking where a settlement for psychiatric patients could be established. According to the procedures for land development, a copy of the letter was sent to the zonal town planning officer to seek his views about the application. On 15 October 1975, the district land development officer, referring to his earlier letter, "Application for allocation of land for a psychiatric (patients) village settlement", informed the regional land development officer that:

I have now received the town planning officer's views that there is no objection to the land being requested by the regional medical officer being used for a village for the disabled. The town planning officer has prepared a drawing, a copy of which is attached, showing an area of 67 acres for this project.³

The zonal town planning officer's agreement was contained in the letter written to the district land officer, 7 days after the above communication between the two land officers in the region and the district. In his letter, the town planning officer wrote:

This office (town planning) has no objection to the land requested being used for the functions indicated above (a village for psychiatric patients). I am enclosing herewith a map indicating in green colour the area concerned.⁴

Although this was not stated in the letter, the planner's positive response to the use requested must have been in conformity with the Moshi master plan, which had been approved about 2 months earlier. This plan zoned the land intended for the psychiatric patients' settlement for institutional use. To facilitate the quick implementation of the project for the psychiatric patients' settlement, although the land requested had not been surveyed to establish its legal boundaries, the district land development officer advised

... preliminary survey (pegging) to be carried out to facilitate identification of the area so as to allow (construction) work to start, while proper survey can follow later.⁵

Finally the district land development officer requested the regional land development officer to allocate the land to the regional land development director, who is the custodian of government estates in the region.⁴ This process had so far taken 3 months, and allocation was effected by a letter from the regional land development officer to the regional development director, carrying the heading "Rehabilitation centre for psychiatric patients[,] Moshi district."

... With this letter I am offering your office this land to permit construction of a village for psychiatric patients as requested. Boundaries for that land need to be demarcated (survey). When survey (cadastral) of that area is completed you will be furnished with survey costs.⁷

The land in question is located on the western side of the Kilimanjaro Christian Medical Centre, a referral hospital which became operational in March 1971. At that time, the town's jurisdiction area did not include the hospital, nor the land where the institution for the psychiatric patients would be located. I have deliberately described, above, the background to the purposes for which this land was requested and allocated to enable the reader to understand what will happen later in the story. The story is about a change of use of the psychiatric patients' land from its designated institutional use to a residential area for a group of influential persons in the government and the ruling party, *Chama Cha Mapinduzi* (CCM). To rationalize this change in land use, some of the facts about this issue will be strategically changed to accomplish private interests which prompted the change of use.

The Villagers “Eye” the Land

Three years after the land had been allocated to the psychiatric institution, Longuo villagers noted that that was not being used fully as they had expected, so they asked to be allocated it for farming. The Longuo village chairman wrote to the district commissioner referring to their discussion.⁸ From what he wrote in the letter, it transpired that their discussion was about the land that had been taken from them to build a psychiatric institution. They wanted it back so that they could use it for communal farming. The land in question was originally owned by a white farmer as registered farm 148/1. After independence in 1961, the farmer had abandoned the farm and left the country; it is believed that this was during the process of converting freeholds to leasehold in 1963.⁹ Not having sufficient land for farming, Longuo villagers began to use it for this purpose, until it was taken from them for the psychiatric institution as indicated above. At that time, the town boundaries had been extended to include the area within the town's jurisdiction.

In his letter to the district commissioner, the village chairman demanded the following information to enable him to tell his committee and the villagers in general about:

- (a) Which regional meeting allocated this land and when?
- (b) Were the grassroots organs of the people at ward and district level involved in the allocation of the farm for the psychiatric unit; if the answer is no, why not?
- (c) How many acres were allocated for the psychiatric patients (institution)?
- (d) The village committee and all the villagers are aware that the psychiatric patients have never at any moment used the land for farming. Why should not the villagers be allowed to establish an agricultural project on this big farm, at the same time being obliged to provide a proportion of the produce to the psychiatric patients?¹⁰

On 21 April 1978, the district commissioner, after consultation with the regional land development officer, replied to the letter from the village chairman in the following terms:

... I wish to say that land is state property and the government will take care of this land for the interests of future generations.

Therefore the government (which is ourselves) shall not hesitate to designate and allocate land to the institutions responsible for national development, while at the same time respecting co-operative villages pursuant to the framework of the powers endowed to them. . . . Mawenzi hospital . . . was allocated the land in question . . . 67 acres to be used for buildings (of a psychiatric patients village) and part for patients farms. Farming activity is part of the therapy for these patients. It would not be wise to release this land to the villagers. . . .¹¹

The district commissioner's reply did not answer any of the questions posed by the village chairman. Rather, it tended to show the government's concern for "the interests of future generations", which the village chairman, judging from his two questions, did not object to. However, as indicated earlier, the chairman was not concerned with why the psychiatric unit had been located where it was, but with how the decision was reached and how the designation of all that land for the unit was justified.

The Custodians Surrender the Land to Themselves

On 23 January 1991, a protracted process to change the use of a major part of the land for the psychiatric institution and eventually all of it formally began. In an emergency meeting convened by the regional medical officer and attended by three doctors, including himself, and three other officials from Mawenzi government hospital, the regional medical officer informed the meeting that the chairman of the regional land allocation committee had visited his office and informed him that Longuo area, where the psychiatric unit had been located, was a part of Moshi Town. Given the pressure for town growth, such un-built land was supposed to be re-planned, surveyed into plots, and allocated to developers with the capacity to build.¹²

After a discussion lasting 1 hour, it was unanimously resolved that since only a proportion of the land had been built on, while 45 acres were used for farming, it was necessary to surrender 20 acres of it for the intended residential plots, as recommended by the chairman of the regional land allocation committee, and to retain the remaining 25 acres for the psychiatric unit's activities, including rearing livestock, farming, vegetable gardening, etc. Two months later, the regional development

director wrote to the principal secretary, Ministry of Health, about the decision which had been reached regarding the land occupied by the psychiatric unit.

An area measuring 50.857 acres (20.59 ha) was zoned for the psychiatric patients (centre). It is estimated that only 5 ha have been developed with buildings housing the centre. The remaining area has not been used for the purpose of that centre as intended and pursuant to town development conditions as stipulated in the Moshi Municipality Master Plan ... (and) considering use of that land, which is located in a quiet residential area (a low-density residential area), the following decision has been reached that:

- (i) the psychiatric unit be left with an area sufficient for its activities.
- (ii) the remaining part be used for a quiet residential area as provided for in the Master Plan, instead of a farm ...¹³

In a copy of this letter to the regional land development officer was the instruction:

Start surveying plots in that area so as to satisfy special applications by government leaders who applied (for plots).¹⁴

Three days later, having received that instruction, the regional land development officer wrote to the council planning officer to inform him that:

... the area zoned for psychiatric patients ... has been chopped ... you are instructed to prepare a layout plan of the chopped area (10.59 ha) for a quiet residential area. Attached is a map showing the area remaining (for psychiatric unit) and that chopped (for the residential area). Please accord this issue the necessary importance and complete the layout soonest.¹⁵

That same day, the regional health authorities yielded to pressure from the regional authorities who were responsible for land allocation to release the land exclusive for a low-density residential area.

... in a meeting held on 23 January 1991, chaired by the regional medical officer, it was agreed that the area be surrendered (to the land allocation committee) for a survey of plots

while maintaining a small area for minor functions such as garden ... etc.¹⁶

By 9 August 1991, the layout was ready. The planning procedure required that once such a layout plan is ready, it should be ratified by the urban planning committee before being submitted to the regional town planning officer, who forwards it, together with his comments, to the director of urban development for approval. Contrary to this procedure, the council planning officer forwarded the layout plan to the director of urban development. In his letter of submission, under the heading “Layout plan for the area carved from the psychiatric unit site – farm 148/1” (see Figure 11.2), the planner wrote:

... I am sending to you a layout plan for the area indicated above, which I have prepared following instruction from the regional land development director.... The land officer having been instructed

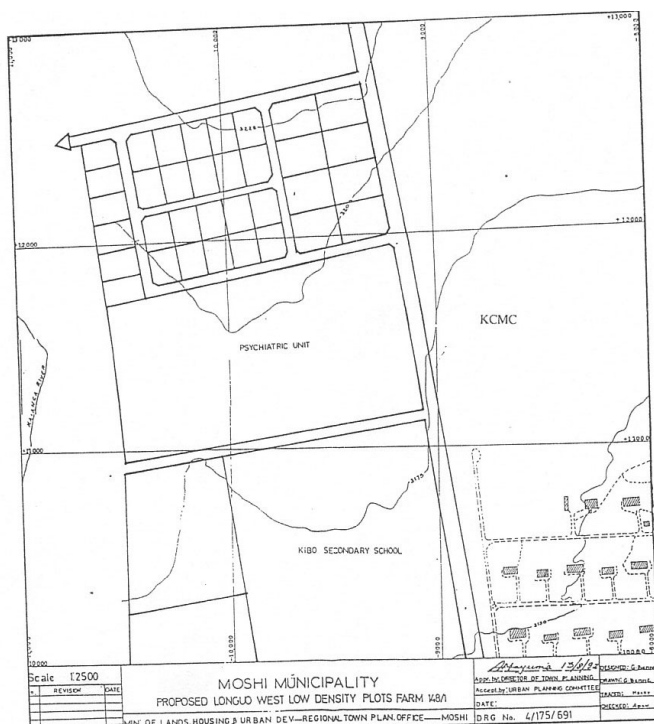


Figure 11.2: Farm 148/1 layout plan of 32 plots was later extended to contain 64 plots

by the regional land development director.... The area involved has 10.59 hectares ... the layout contains 34 low density plots. The size of plots is as follows: (1) Eight (8) plots of 3,800 square metres. (2) 26 plots of 2,000 square metres. All plots are for residential purposes. This layout has been discussed and ratified by a committee of experts on land ...¹⁷

An interview with a planner in the regional office confirmed the real motive behind the change of use.

Interviewer: What, in your opinion, motivated the change of use of the psychiatric unit's land?

Planner: This was influenced by political change (in Tanzania). The Arusha Declaration restrained leaders from building.¹⁸ Later on [at Zanzibar in 1992] they were allowed to invest.... Subsequent to that decision [Zanzibar Declaration] the demand for plots started to build up. This necessitated a search for land which had no commitments. It happened that Farm 148/1 (the psychiatric patients' area), which was designated for a regional hospital, had been surrendered back to the government, after it was realized that the hospital (if built) would have been very close to the KCMC referral hospital. Because of the needs of the national leaders, *ikajengwa hoja*, rationalization to change land use began. Then the [regional] land allocation committee instructed the municipality to prepare a layout [plan]. All procedures were followed until the process had been completed.

We shall see later why the planning officer emphasized that all the procedures were followed until the process had been completed. In another interview with the councilor for Longuo, who was also a member of the regional land allocation committee, he revealed that the decision to change use of the psychiatric unit's land had been reached long before the formal process had begun. In his struggle to obtain a piece of land to build a primary school to cater for his ward, the councilor said:

I submitted an application to get land for the school in this area, but it was rejected. I was told that, "you are too late because a plan for this area was made even before you were elected a councilor [in 1989].... There is already a very long list of applicants ..."¹⁹

Objection, Counter-Objection, and Lobbying

By 19 August 1991, the director of urban development had received the layout plan forwarded to him by the regional town planning officer. He noticed an irregularity in the plan's approval procedure, namely that the Kilimanjaro regional town planning officer had not given his views to enable the director to decide on the proposed change of use. He therefore directed a planner in the directorate of urban development to seek the views of the Kilimanjaro regional town planning officer and most importantly those of the Ministry of Health, the occupier of the land in question. Contact with the Ministry of Health took place 2 months later, when the director of urban development wrote to the principal secretary, Ministry of Health, stating that

... The regional authorities in Kilimanjaro have requested my department to permit a survey of this area (psychiatric unit) for residential purposes. I wish to get your views and future plans (for that area) before approving the layout plan reference no: 4/175/691 ...²⁰

On 23 October 1991, the Ministry of Health replied and provided the director of urban development with the views requested:

... We regret to inform you that the proposal to chop that area is unacceptable. In principle, psychiatric patients are underprivileged and their services require sufficient room, both at present and in the future. Therefore, (I) being the occupier of that plot, you are requested not to approve this proposal, because [the site] is still very much needed for psychiatric patients.²¹

That same day, the principal secretary, Ministry of Health, wrote to the Kilimanjaro regional development director to emphasize that:

I regret to inform you that the proposal/decision to chop the area designated for psychiatric patients is unacceptable. Therefore[,] THIS IS A CERTIFICATION TO OBJECT THAT ISSUE [emphasis in the original] It should be held that areas designated for health services, particularly for psychiatric patients, should be safeguarded by all means against expropriation, for

whatever reason. . . . Let us help these patients to safeguard their area, recognizing that they cannot help themselves²²

While the director of urban development was contemplating writing to the regional town planning officer to disapprove the change of use, the letter from the Ministry of Health which had objected to the change of use had reached the Kilimanjaro regional development director. The position of the Ministry of Health clearly conflicted with that of the regional medical officer and thus with the interests of the regional officials who were apparently behind the proposal. Dissatisfied with this objection, 2 months later the regional development director decided to appeal to the principal secretary in the Ministry of Lands, Housing and Urban Development to challenge the Ministry of Health, claiming that:

. . . the psychiatric patients' project was (initiated) as a regional rather than a national project . . . this area was therefore allocated to the regional development director. . . . The project was not implemented as anticipated. In consultation with the authorities concerned, therefore, a decision was reached to surrender the area for a quiet residential area. . . . Moshi Municipality followed all procedures for the change of use and prepared a layout plan. . . . Having fully followed the administrative procedures, I don't see the basis on which . . . the Principal Secretary, Ministry of Health . . . should interfere with the correct decision of the authorities responsible (for that land). Therefore, urgently complete the approval process for this change of use and the layout plan.²³

Three days later, the letter was received in the ministry. Objections from the Ministry of Health had already been received by the same office. According to a note to the director of urban development, the principal secretary interpreted the matter as a dispute between the parties concerned and therefore sought an explanation from the urban development director concerning the dispute. He, however, observed that:

. . . the ministry of health rejects expropriation of this area[,] and I think they are right, because they are the experts (in health facilities).²⁴

As if the appeal letter were not enough, the regional development director, accompanied by the regional land development officer, that is, the chairman and the secretary of the regional land allocation committee, respectively, decided to travel to Dar es Salaam, 550 kilometres away, to speed up approval of the change of use and the layout plan in the Ministry of Lands, Housing and Urban Development. This lobbying by the two regional officials was confirmed by the director of urban development, in his letter to the regional town planning officer, written the following day. In this letter the director informed the officer that:

... I can see there is immense pressure from the Kilimanjaro regional authorities, whereby the Regional Development Director, accompanied by the Regional Land Development Officer, are here in the ministry to follow matters) up so that the drawing is approved contrary to the advice of the Ministry of Health.²⁵

The regional development director's presence in the ministry for that purpose was also confirmed by a memo written the following day by the minister for lands, housing and urban development, requiring the principal secretary in the same ministry to seek the advice of the director of urban development on the issue of a change of use for the land in question. In this memo, the minister noted that:

The Kilimanjaro Regional Development Director is in my office regarding Shanty town area [psychiatric unit area] ... so that he can proceed with survey/prepare layout [of the area]....²⁶

Most likely because of this lobbying, 5 days after the first note to the director of urban development, the principal secretary in the Ministry of Lands, Housing and Urban Development changed his position. He wrote another memo to instruct the director of urban development as follows:

Kindly concur with the Kilimanjaro Regional Development Director's proposal to subdivide the area. The Regional Development Director has already surrendered an offer of that area so that changes can be made. This memo cancels the earlier one.²⁷

Despite the instruction of the principal secretary, the director of urban development was apparently not convinced by the change of use for the land in question, nor of the manner in which the whole

issue had been handled. He thus wrote to the regional town planning officer as follows:

Before approving the (town planning) drawing which proposes expropriating part of the area for the treatment of the psychiatric patients, I wrote a letter to the principal secretary, ministry of health, to seek his views regarding the proposal. The principal secretary in his letter Ref. no. HEL/L/80/1/338, dated 23/10/91, rejected the proposal and emphasized that they (the ministry of health) needed the area for these patients, both now and in the future. The principal secretary, ministry of health, has also written another letter to the Kilimanjaro regional development director, Ref. no. HEL/L80/I/339, dated 29/10/91, objecting to the idea of taking part of that area. Recognizing that the Ministry of Health are the experts in issues of psychiatric patients' therapy and that they know their requirements, I did not approve that (town planning) drawing...²⁸

In the same letter, the director of urban development gave another reason for not approving the proposals, this time focusing on the irregularity in the legal procedure for plan approval:

Nevertheless, pursuant to section 27 of the town planning law, chapter 378 of 1956, (town planning) drawing or proposals for (change of) land use ought to have been discussed by the Moshi Municipal Council before being submitted to the ministry for approval. By this letter you are required to ensure that the (town planning) drawing and the proposals (to change use) contained in the indicated drawing are discussed by the Urban Planning Committee of the Moshi Municipal Council. For the benefit of the psychiatric patients, the council, region and the nation, it is important for the discussion to proceed in accordance with the comments of the Ministry of Health, then to forward the minutes of the Urban Planning Committee to the ministry.²⁹

In the next chapter, we shall return to this apparent attempt to protect the public interest, to see whether the director of urban development will succeed in doing so. However, even if the Ministry of Health had not required this land, it should not have justified the change of use from public institutional to private residential use, because there were many other institutions which had applied for land. One was Sokoine primary

school. The Longuo community, where the school is located, had gone to the lengths of requesting land from the Kilimanjaro Christian Medical Centre hospital and the police college. Having no space to build a school, the Longuo community had run a primary school class under a tree at the police college. This problem had been common knowledge to planners in Moshi since 1989, when the issue was brought before the council by the councilor for Longuo, as he recounted:

... I went to the council ... to convince them to register a school, though we had no premises. What we did was to enroll a hundred children and then go to the council to ask them where we were to take them?... 'Give us permission so that we can start teaching them under a tree. We cannot leave them without education'.... The permit was issued and we registered Longuo primary school [later Sokoine primary school], which had no premises.... We then went to the police college to request the authorities there to allow our children to begin schooling under a tree located near a place where they [the police college] had established a nursery school.... We indeed started teaching them under the tree ... we also enrolled some of the children of the police officers.³⁰

Other demands for institutional land were made by the Mountain Kilimanjaro secondary school and Mama Clementina Foundation: both applied for land to establish a secondary school. In the light of these demands, one would have expected the planners to question the proposed change of use. In an interview, the regional town planning officer, who recommended the change of use to the director of urban development, argued that:

The shortage of land in this town is a myth. If you go through the town master plan (1974) there are many undeveloped areas. Msaranga is one of such area. We are experiencing a scarcity of land because of laxity in the enforcement of town-planning regulations to ensure that land is used for what it is designated for.³¹

According to the master plan land use proposal Msaranga was "undeveloped", but third-party interests in the land had not been cleared as required by the land law so that the proposed development could take place. As we saw earlier, this was part of the underlying explanation for the dispute between the council and the residents of

Msaranga. The planning officer knew this very well, as is evident from his report to the director of urban development on the Msaranga dispute. He should have known too that the proposed change of use for the psychiatric patients' plot was in part a result of residents' resistance to the surveying and allocation of plots on their lands; and that now there was no more public land as such to subdivide into plots and allocate to applicants, a cheap target in meeting private interests were areas designated for public use. This was confirmed by the planning officer, in his response to the author's question as to why the land designated for the psychiatric unit was targeted for a change of use and for subdivision into residential plots.

... In the process of looking for an area which could be subdivided into plots, this area was considered free of third-party interests, unlike Msaranga, where one would have to enter into confrontation with the residents.

Interviewer: Being an institutional area, what about public interests, which you as a planner is supposed to protect?

Planner: You know, our leaders dictate what they want. As experts, we also have to safeguard our interests. We are forced to agree, but we do so, knowing that there are other areas designated for public institutions. ... [Moreover] in this case other decisions were made at 'higher circles': I was not involved. They came to me and said, 'we have got here, so continue.'³²

Judging from the planning officer's response, it appears that he did not regard the public interest in the psychiatric patients' unit as representing a third-party interest of which he was the custodian. However, he behaved sincerely in conceding that he was safeguarding his personal rather than public interest in succumbing to pressures from the more powerful private interests of his superiors.

Ratification of the Expropriation Plan

Ten days after receiving the letter of instruction from the director of urban development, the regional town planning officer instructed the municipal planning officer to convene an emergency meeting of the urban planning committee to discuss the proposal. In the letter under the heading "Change of use and approval of drawing no: 4/175/691,

area previously designated for use of psychiatric patients, Moshi Municipality”, the regional town planning officer instructed the municipal planner as follows:

... Please convene an emergency meeting of the Urban Planning Committee to discuss the drawing (the layout plan) and eventually to obtain its recommendations....³³

The committee was convened 20 days later. There were many other items on the agenda, but the issue of a change of use for the land occupied by the psychiatric unit was the main item and it was brought up in style. The municipal planning officer had written a two-page paper under the heading “Change of use and approval of [town planning] drawing no: 4/175/691 (for) area previously zoned for the use of the psychiatric (unit), Moshi municipality”. Extracts from the paper reveal the planning officers’ arguments for the change of use as presented to the councilors:

The area mentioned above, measuring about sixty acres, was earlier designated for purposes of orientation in the recovery of psychiatric patients.... When the area was designated in the 1970s [1975], it was outside the town boundary and being used for maize farming.³⁴ Agricultural use continued to dominate, even after this area had been included in the town boundary in 1979.... The Moshi Master Plan (1974) designated this area for psychiatric patients’ use ... (the) major part ... continues to be used for farming.... A change from the previous use is being sought so that the area can be used for quiet residences, while temporarily maintaining [the] part which is being used for the psychiatric patients. The basic reasons for this change are:

- (a) The area surrounding this institutional area is fully developed for quiet residences. The existence of psychiatric patients near this area [in the neighbourhood] can endanger the lives of the residents ... a reoccurrence of their illness might make them hostile and aggressive.
- (b) An alternative area for the psychiatric unit needs to be identified in another district outside the town, so as to avert the possible negative effects. Therefore, the small area which is temporarily left for patients who are recovering should be used until such time as an alternative area is identified.

- (c) Crop farming, particularly of crops such as maize, is restricted in town pursuant to farming bylaw No: 612 of 1986.
- (d) Subsequent to the above, the Kilimanjaro regional development director, who was allocated that area (land) on behalf of the government in the region, has agreed to surrender the land for purposes of quiet residences.³⁴

The planning officer then presented a proposal of how the land would be subdivided as indicated in Figure 11.2 and prescribed by him in his presentation:

To start with, only ten hectares would be used for 34 low- and medium-density plots. There are eight low-density plots whose area is 3,500 square meters each, and 26 medium-density plots, each measuring 2,000 square meters. These proposals (the change of use and layout plan) have been brought before this meeting to seek your ratification and eventually to be submitted to the Director of Urban Planning (Development) Tanzania mainland for further implementation (approval).³⁶

After this, the urban planning committee quickly ratified the proposals. The committee resolved, however, that in allocating the plots, the council should be allocated six plots for staff houses, four medium-density plots and two low-density plots. Moreover, the urban planning committee recommended that the regional land allocation committee should look for an alternative site for the psychiatric unit.³⁷ The minutes of this item on the agenda were then submitted by the municipal planning officer to the director of urban development through the regional town planning officer, who endorsed the proposal and forwarded it. In his letter of submission, the municipal planning officer informed the director of urban development that:

The Urban Planning Committee, in its meeting held on 2 March 1992, discussed the issue of land-use change concerning the area mentioned above in detail and thoroughly. Eventually the meeting resolved that part of the area should be used for residential purposes, while the Regional Land Allocation Committee should look for an area to relocate the psychiatric unit. The meeting also ratified the proposed (layout plan) drawing for that area, as shown.... These proposals are submitted to you for further implementation (approval).³⁸

Following the above process as documented in the minutes of the urban planning committee meeting, the committee essentially “rubber stamped” the planning officer’s well-prepared proposal, rather than discussing it in “detail and thoroughly”, as reported. The only contribution made by the committee seems to have been the demand that the council be allocated six plots upon approval of the plan by the director of urban development. Before proceeding to the next chapter to follow such questions as what will happen in the approval process, and how the land in question will be allocated and to whom, let us now reflect on what this chapter has shown.

Summary

This chapter has shown that although the district commissioner conceded that it would not have been wise to have released the land in question to the villagers, later it became wise to release it to the influential. This time “the interests of future generations” were put aside in favour of the interests of the present generation of influential people. We see here how power was exercised to suppress the interests of the less powerful, but the same power was exercised to facilitate a change of use in the psychiatric patients’ land in favour of the interests of the more powerful elite. Whereas during that time the villagers intended to use part of the land for farming and were willing to contribute a proportion of the produce to feed the psychiatric patients, the elite decided to take the land and move out the psychiatric patients, claiming that they were “hostile and aggressive”. The elite wanted to use the land for “quiet residences” for retirement, after serving a system which in the past had restrained them from committing this kind of act in broad daylight.

We have also seen how the changing political context has influenced the behaviour of those entrusted with the power to take care of the public interest. They used the planning system as a vehicle to rationalize their personal interests.

The village chairman’s questions, as seen earlier, contain important hints of how land use change decisions were reached. They suggest two things. First, the villagers were not involved in the decision as to where to locate the psychiatric institution, which implied a change of use for that particular land from agriculture to institutional. Secondly, following that decision, land was being used inefficiently. As we saw from the district commissioner’s response, although the village chairman was

concerned about how and why so much land had been allocated to the psychiatric unit, the response to the question implied that the chairman was asking for the psychiatric unit to be justified. This twisting might have been done deliberately to avoid accountability with regard to the democratic nature of the process involved in reaching the decision, this being the concern of the chairman. Moreover, the village chairman's question about public participation suggested awareness among the villagers of the existence of a system to involve people in decision-making, which in this case was not used. That system was in place and inscribed in the national constitution as well as that of the ruling party, CCM. Moreover, Section 27 of the Town and Country Planning Act, Chapter 378, requires planning decisions to be subjected to public examination before they are approved by the minister responsible for town planning.

It appears that if the planning system had been invoked, as required by the planning law, the people of Longuo would have had knowledge of the land use designated for the area in 1973/74, long before the adoption of the master plan in 1978. However, as we saw earlier, the non-involvement of residents in the master planning process underlies the concern raised by villagers at that particular moment. This does not mean, however, that the planners and the district authorities could have avoided the chairman's questions by only involving the residents at the master-planning stage. The involvement of the residents was also necessary during local planning, when they could more easily comprehend the effects of land use change decisions, than at the broad master-planning level. What we have seen suggests that lawful planning procedures were flouted at the expense of depriving the residents of their democratic right to participate in decisions that affected their lives. One of the results of this practice is that people started to suspect irregularities in the government machinery by bringing forward critical matters which the authorities could hardly justify or account for. The second question, regarding the amount of land allocated, had a hidden agenda which required planners to justify the standards used to arrive at the large size of the plot that had been designated for the psychiatric unit. Both questions were as relevant at that time as they would be today, given the exclusion of residents from planning decisions and the inefficient use of land, which seems to be promoted by the public ownership of land and the official notion that land has zero value.

The case study shows that the local planners – in the council as well as the regional office – other experts and bureaucrats responsible for

planning and land administration in the region, who were carriers of the private interests lurking behind the change of use, allied with key politicians in the council so that the urban planning committee was used to “rubber stamp” a decision that had already been made. The attempt to use the directorate of urban development in Dar es Salaam in the same way failed at first, because there seems to have been no such alliance between the interests behind the change of use in the region and the centre. However, the regional experts, and bureaucrats, lobbying of the minister responsible for town planning and possibly the Ministry of Health so far seems to undermine the firm position maintained by the planners in the directorate of urban development. Moreover, as if following the procedures for a change of use could by itself justify their proposal, we have seen that both the planners and the bureaucrats in the region confidently embraced this argument. In the first place, however, they should have reflected on the fact that they had skipped some of these very procedures, so that the director of urban development declined to approve the proposal until the procedures laid down had been followed. Moreover, just following procedures was insufficient justification for the decision to change the use of the land in question; sound substantive arguments were also needed. Because of the position the local planners took in relation to the question of the public interests involved in this case, no balanced evaluation of the decision to change the use of the land in question was carried out.

The municipal planning officer’s submission for the change of use referred to the disadvantages of having the psychiatric institution in the area, but it was silent on the advantages of maintaining the area for institutional use. Ideally, given the problems in acquiring land in Moshi Town discussed in previous chapters, one would have expected the planners to protect the little public land available to cater for the existing and future requirements of public uses. We have seen in this chapter that at the time of changing the use of the land in question, there were other applications for institutional land, and the council was grappling with the problems of compensating properties and of finding alternative land to allocate to property owners who had been displaced by public facilities.

Chapter 12

Sharing the Expropriated Land

Power determines what counts as knowledge . . . procures the knowledge which supports its purposes, while ignores or suppresses that knowledge which does not serve it¹.

Bent Flyvbjerg

. . . if the state has coercive force, then those who run the state will use that force in their own interest at the expense of the rest of the society².

Douglas North

The previous chapter has left us with several unanswered questions: Whether the director of urban development will succeed in preventing the change of use for the sake of the public interest that is at stake. If he does not, in part because of the lobbying which has already shaken the Ministry of Health's position on the issue and also that of the principal secretary in the Ministry of Lands, Housing and Urban Development, then who will acquire the plots, and how will allocation be justified by the regional land allocation committee? What will be the implications of the decision that will be taken?

Attempt to Protect Public Interest

On 10–12 March 1992, having received the proposals of the regional town planning officer, the director of urban development visited the psychiatric patients' facility site in Moshi. This gave him an opportunity to acquire a more informed view about the proposed change of use as documented in a report he wrote after returning to Dar es Salaam. In this report, he wrote *inter alia* that:

... The officials of the centre for the psychiatric patients' facility object to the proposed change of use of that land from institutional

to residential use. The first reason [for the objection] is that psychiatric patients need an extensive open area, and secondly, they [the officials] are not certain of their allocation [share] of plots in that area. They are worried that plots will be allocated to others ... the Minister for Health had once visited that site and declared his objection to the proposed change of use ...³

In the same report, the director of urban development cautioned and subsequently recommended that:

... If change of use is permitted before an alternative site for the psychiatric patients is secured outside Moshi Town, the patients will be negatively affected. ... Even if a site becomes available, the costs of moving ... will be very high, [and] the government cannot afford it. ... Change of use of land designated for a public function, particularly for a psychiatric institution, to private use is a sensitive [matter]. The government [in general] and the ministry of lands, housing and urban development [in particular] should be careful, lest this leads to objections from citizens. Although Section 78 ... of Chapter 378 of the Town and Country Planning Ordinance legally empowers the minister for lands to change use of land, this being government land, the ministry of lands should obtain a permit from the State House. ...⁴

On 14 April 1992, in line with the above, the director of urban development entered into internal communication with the principal secretary in his ministry regarding the change of use for the land in question.

... Before the Honourable Minister approves chopping the area for psychiatric patients ... I advise that he should consult with the Minister for Health ... and reach a common position in respect of a change of use for this land. Secondly, I advice that consent or permission to chop public land and allocate it to private individuals for housing be obtained from the State House. ...⁵

After the director's visit, the plot-subdivision plan prepared earlier was revised by the regional town planning officer himself to provide for 64 instead of the earlier designated 32 plots (see Figure 12.1).

Out of about 25 hectares (55 acres) originally set aside for the psychiatric unit, only about 2.5 hectares were left for the institution.

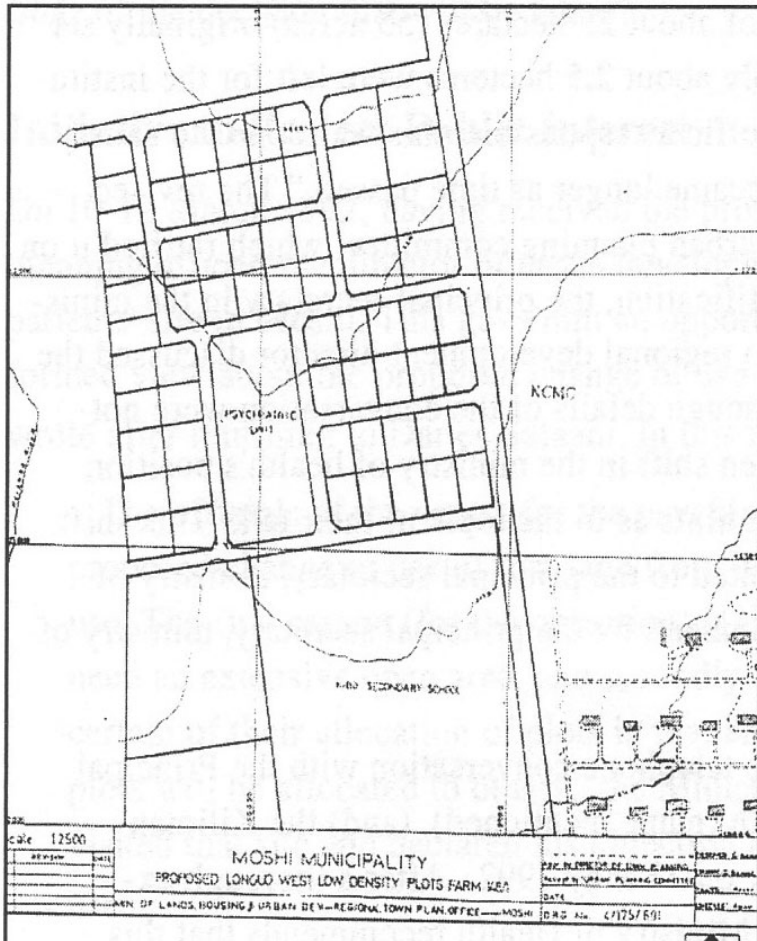


Figure 12.1: Farm 148/1 layout plan of 64 plots

According to the planning officer responsible, this was done “to satisfy the long list of leaders, which became longer as time passed”. The revised plan was again presented to the urban planning committee, which ratified it on 25 May 1992. Two days after the ratification, the principal secretary in the Ministry of Health and the Kilimanjaro regional development director discussed the change of use by telephone. Although details of the conversation were not obtained by the author, the sudden shift in the Ministry of Health’s position regarding this issue may provide hints as to the topic of their talk. This shift was

documented and communicated to the principal secretary, Ministry of Lands, Housing and Urban Development, by the principal secretary, Ministry of Health, claiming that:

... [This] is in addition to the telephone conversation with the Principal Secretary, Ministry Of Health [name mentioned], [and] the Kilimanjaro Regional Commissioner on 27 May 1992. After a thorough examination of the matter, the Ministry of Health recommends that this issue be pursued as suggested by the Kilimanjaro Regional Development Director. The ministry has no plan to establish a centre for psychiatric patients in Kilimanjaro region.⁶

Two months later, the director of urban development wrote to the regional town planning officer to inform him that he had approved the change of use, and subsequently he permitted the plot-subdivision plan to be drawn up. In fact, the plan had already been drawn up and it accompanied the application for change of use, as we saw in the previous chapter.

The issue mentioned above has been thoroughly investigated by the Director of Urban Development while in Moshi Town for a special mission on 10-12 March 1992 ... By letter, ref. no.... dated 28 May 1992, which the Principal Secretary in the Ministry of Health wrote to the Principal Secretary, Ministry of Lands Housing and Urban Development ... he had concurred with the proposal of the Regional Development Director. Plots can [thus] be created in that area.⁷

Reading between the lines of this approval, it can be seen that based on his earlier response, as we saw in the last chapter, and on this lengthy precautionary report on the proposed change of use, the director of urban development does not seem to have been convinced by the proposed change of use but washed his hands of it like Pilate in the biblical story of the trial and judgement that led to the crucifixion of Jesus: "I cannot find any reason to condemn him.... But according to customs you have ... you take him, then, and crucify him...."⁸ The director seems to be saying the same in respect of the issue in question: "I see no justification for this change of use. However, because the Ministry of Health have declared that they do

not need the area, carry on in pursuit of the interests of the Regional Development Director.”

The Winner Takes All: Allocation of Plots Before Approval of the Survey Plan

The long-awaited day came at last on 28 April 1993. The survey plan had not been approved, but the land allocation committee convened under the chairmanship of the regional development director and the regional land development officer acting as secretary. A total of 1,480 applications had been received by the secretary to the committee for

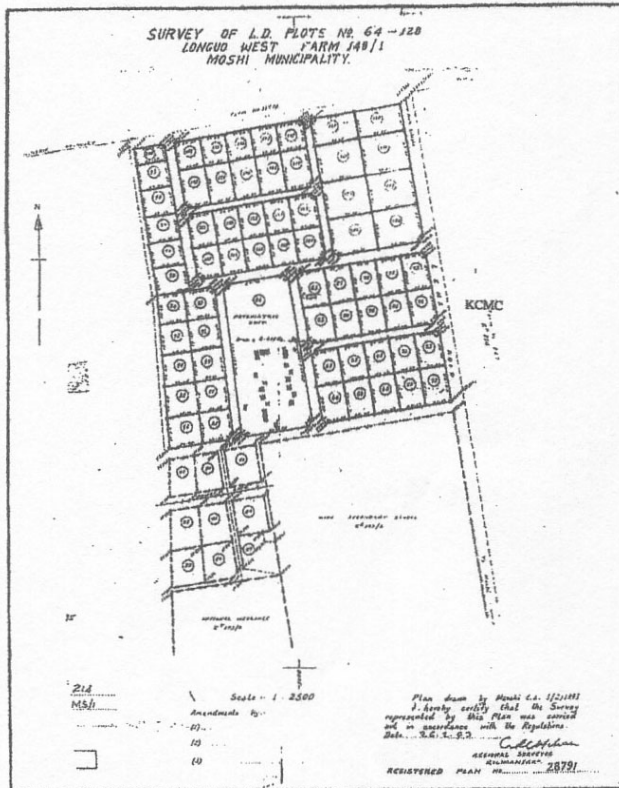


Figure 12.2: Approved survey plan. Contrary to the procedures in place, the Regional Land Allocation Committee allocated plots before the survey plan was approved

only 64 plots. The land allocation committee, which is supposed to ensure that regulations are adhered to, decided to bend them and rationalizes its action:

... (A) survey [of the 64 plots] has been carried out but [it] has not been approved. Although allocation is supposed to take place after the survey has been approved, because of possible problems, including farming, which could spoil the survey [uprooting of beacons] and also the invasion of the land, it is necessary to allocate [the plots] while we wait for the survey to be approved.⁹

The committee resolved that the 64 plots would be allocated to the following categories of people:

- (i) Consultant doctors
- (ii) Senior government servants
- (iii) Public corporation employees
- (iv) Leaders of *Chama Cha Mapinduzi*
- (v) Private companies with employment creation projects
- (vi) Religious bodies and private individuals.

In general all the people [to be allocated plots] should try to adhere to types of building appropriate for the town's master plan. The building [should be] grade -A. Environmentally speaking, this area is similar to Oysterbay/Mbezi [beach in] Dar es Salaam.¹⁰

The general reason, as documented in the minutes of the regional land allocation committee, for justifying allocation to doctors and other senior government officials and to ruling party politicians who were also allocated plots was:

In general, these servants have rendered important service to the nation. It is appropriate to allocate them plots so that they can retire comfortably. They can afford [to build], and this area is appropriate for them because it is quiet with many government houses... In general, these doctors will be able to offer better service when they are living close to their KCMC referral hospital and thus reduce the problem of housing for doctors who, being

entitled officers, are supposed to be provided with expensive rental housing.

Otherwise, specific reasons for allocating plots to some individuals included for instance:

He wants to retire here [in Moshi] ... his wife comes from Moshi ... he is a member of the plot allocation committee ... the Minister for Lands has asked us to help him ... he [the planner who prepared the plan and surveyor who surveyed the plots] has surveyed and drawn many plots but the committee has not allocated him a plot ... he has no house anywhere after serving CCM for many years ... he would like to retire here but he has not been allocated a plot which corresponds to his status ... he has completed [building] houses for his children only.¹¹

All the councilors on the land allocation committee were allocated plots, but not all the members of the committee. An interview with a member of the committee revealed that executives like regional engineers, water engineers, etc. were not allocated plots, and that they could not make a fuss about this because the chairman of the land allocation committee was their boss. The planner and the surveyor were allocated plots because they were “cooks”, and as is indicated in the plot-allocation list, “they have designed and surveyed many plots.” An informant on this committee, who requested anonymity, said that the list containing most of those allocated plots was prepared in high circles. The land office, which is normally responsible for preparing such lists, was not involved. He also said that the chairman of the land allocation committee came to the meeting with a list containing the names of government and political leaders which corresponded to the number of plots available for allocation. Some people had been allocated two plots.

The informant continued to claim that:

Those outside this list who got plots, it was sheer luck. Myself, I was not allocated a plot until six o'clock in the evening, when the meeting had started at eleven o'clock in the morning. I ... had to beg. I said, I am the ‘cook’, I am hungry. I have been in this town for a long time and I have no plot. The chairman said, ‘People who cannot afford [to build] cannot get a plot in this

area'. I said, I can afford. After being supported by some councilors, I was allocated [a plot]. . . . The affordability criterion was used by the chairman to justify his list of names. . . . Ordinary people were not allocated plots in this area because they did not apply for plots in farm 148/1. They applied for plots in other areas, such as Majengo, Pasua, block DDD, etc. The leaders applied for plots in that area.¹²

When "big people" apply for plots, their preference is Shanty Town, which is exclusively for the elite.¹³ Farm 148/1 is adjacent to this area. Even when they do not indicate it, those involved in land allocation would always think of Shanty Town as the appropriate area for the same class of people. Less than a month after the plots had been allocated, one resident of Moshi municipality wrote a letter to the ruling party, under the heading "Denied right of being allocated a plot". Copies of it were sent to the prime minister and first vice-president . . . the minister for home affairs . . . and the minister for lands, housing and urban development.¹⁴

The resident complained that:

I sent my application to be allocated a plot in 1975. . . . What surprises [me] is to see that recently, the well to do '*vigogo*' who are members [of the party] were allocated more than two plots without bothering about a disadvantaged person like me.¹⁵

About 7 weeks later, the chairman of an opposition party, the National Convention for Construction and Reform (NCCR)-*Mageuzi* wrote an open letter to the Kilimanjaro regional commissioner, claiming that their office had received complaints from their members and other disadvantaged "*wanyonge*" residents of the Kilimanjaro region regarding the actions of government officials.

Your honour, we have received with regret the disgraceful news regarding the action of the leaders of government and *Chama Cha Mapinduzi* [the ruling party] in daring to snatch an area designated for the extension of a ward for psychiatric patients . . . this land was nationalized by the government of the *Chama Cha Mapinduzi* for the disadvantaged citizens of this country. . . . Now, your honour, if the government has failed to implement what

it initially intended [on this land], then, those whose land was nationalized should get it back. . . . Let it be clear that in the future this area will be required for the development of the people of this country. . . . You being the representative of the President in this region, this office calls you to take care of this issue immediately.¹⁶

The Little Child: “*Vigogo Wapora Ardhi ya Vichaa*”

On 17 July 1993, 3 weeks after the plots had been allocated, the newspaper *Mfanyakazi*, owned by the Tanzania Workers Union – JUWATA, now OTTU – published an article under the heading “*Vigogo Wapora Ardhi ya Vichaa*, meaning “The Influential Grab Psychiatric Patients’ Land”.

Some senior government officials, popularly known as ‘*vigogo*’, have grabbed some land designated for a psychiatric patients’ settlement in Moshi Town . . . and have allocated among themselves residential plots. . . . Certainly, these people have been allocated those plots because of their status in the government. Among the [plot] allottees in that area is the wife of the President of the Revolutionary Government of Zanzibar . . . the chief principal secretary in the president’s office . . . children of the former regional commissioner in Kilimanjaro region, . . . the regional commissioner for Dodoma . . . the regional commissioner for Ruvuma region. . . . Others are the regional commissioner for Shinyanga region, the Member of Parliament for Moshi urban [constituency, who is also a councilor], a High Court Judge . . . , Dr . . . , the chief medical doctor of Mawenzi hospital. In the list there are also [names of] prominent businessmen of Indian origin, and Mr . . . who is claimed to be a close friend of the regional development director [the chairman of the regional land allocation committee] . . .¹⁷

This article attracted public attention and caused uproar. It was an eye-opener, since it showed how the powerful group acted contrary to what was propounded on podiums about equality, fairness, etc. People were also surprised to see such article being published. How could

one say that the emperor is naked? This was what it amounted to in publishing such an article before the political pluralism in Tanzania. The adoption of political pluralism in April 1992 and the subsequent acceptance of a free press had began to make a difference as journalists started being more critical to what was happening in the society, the *Mfanyakazi* newspaper became the “little child” who disclosed that the emperor was naked in the fairy tale “The Emperor’s New Clothes”.¹⁸

Five days after the article was published, the “little child” continued with another article under the heading “The land grabbed by the influential should be taken from them – *“vigogo wanyanganywe ardhi waliyopora”*”

The government has been required to revoke immediately certificates of occupancy for plots grabbed by the senior government officials who are referred to as ‘vigogo’ in the area designated for psychiatric patients in Moshi Town, and require the Ministry of Lands to take action against its officers, who will be discovered to have participated in this shameful act.¹⁹

The newspaper reported that there had been a flow of telephone calls to its offices from the time the previous article was published – disclosing this scandal. The paper continued to report that one caller from Moshi wanted members of parliament to require the government to explain the issue and asserted that: “If leaders can dare to grab land from psychiatric patients, then the country is finished.”²⁰ This remark showed the political implications of such incidents to the people, who expected the government to be in the safe hands of the civil servants and politicians. Such experiences began to erode people’s trust and confidence in the government.

The public complaints and dissatisfaction which surfaced after the plots were allocated indicated that the decision to change the use of land set aside for psychiatric patients’ facility sailed through the planning process unnoticed by the public in Moshi. If, however, the proposal to change use had been presented to the general public as the law requires, there would definitely have been objections. This suggested inadequacy in the existing planning system, whereby land-use change decisions were not examined in public but rather scrutinized in the urban planning committee by councilors, who were assumed to represent the public interest.

Rewriting History: The Site Was Zoned for a Regional Hospital

One month after all the fuss created by the newspaper and widespread complaints from the public, the regional land allocation committee met to consider, among other things, the complaints which arose from the allocation of plots in the famous psychiatric patients' area. The discussion covered what had been published in the *Mfanyakazi* newspaper and a letter to the regional commissioner from a spokesman for an opposition party, NCCR-*Mageuzi*. The committee began the meeting by convincing itself that the complaints from different quarters, as well as what had been published, were baseless and consisted of false allegations, because all the legal procedures as stipulated in the existing guidelines were followed.

... Justice was done without any favouritism ... the claims by the *Mfanyakazi* newspaper and those by the NCCR-*Mageuzi* were false, completely baseless and misleading ... how important government documents, particularly minutes of the land allocation committee of 24 April 1993, were made available to a person who was not responsible, enabling that person to publish scandalous information in the media ... the minutes were released by a disloyal servant who attended the meeting held on ... [remarked the chairman of the committee].²¹

In an interview with the author, a member of the land allocation committee said:

[a resident] got the information that he released to the newspaper when the minutes of the meeting were being typed. Otherwise, it was not easy to get such information because the minutes had not been approved by the next meeting. Therefore he took and publicized raw data, though it was correct.²¹

The members reminded themselves about the history of the psychiatric patients' land, but rewrote it by changing certain facts to suit what they wanted the history to read as follows:

Following the takeover of the farm [148/1] by the government and its inclusion in the town, the Ministry of Health asked to be

allocated that part of the farm in order to build a new regional hospital [the fact is that it was allocated for a psychiatric patients' settlement]. Eventually, the decision to build a new regional hospital was changed: Mawenzi hospital [the existing regional hospital] would be rehabilitated to continue to serve as a regional hospital. [Following this decision] the [psychiatric patients'] area would be used to build a centre for the rehabilitation of psychiatric patients. The decision not to build the regional hospital [in the area] was due to the proximity [of the proposed hospital] to the Kilimanjaro Christian Medical Centre, KCMC, referral hospital and [low] financial means.²²

Based on the letters of application and allocation of the land in question, it is categorically stated that the land would be used for a psychiatric patients' settlement. Nowhere is Mawenzi hospital mentioned, although both the hospital and the psychiatric institution are government-owned institutions under the regional medical officer. When the regional medical officer applied for the psychiatric patients' land way back in 1975, the Kilimanjaro Christian Medical Centre was already there and had been operational since 18 March 1971. Certainly the distance between the land occupied by the psychiatric patients settlement and the Kilimanjaro Christian Medical Centre has not changed to make the two institutions any closer than they were before. Therefore this is no more a fact today than it was in 1975.

Three things were used strategically in the above quotation to rationalize the decision to change use of the land in question: land use, location of the regional hospital, and the distance between the referral and regional hospitals. If the facts had been presented so as to show that the land was designated for the psychiatric patients' institution, it would not have sounded unreasonable to keep this institution where it was, because after all it would benefit from the adjacent referral hospital and vice versa for medical students in psychiatry. However, if a regional hospital, the only other hospital in town, was said to be located adjacent to the referral hospital, this would definitely sound unreasonable and perhaps stupid, because the two hospitals would be too close to each other. Who would want to appear so stupid as not to understand this simple fact and the reasoning behind it?

One committee member, a senior politician in the ruling party in Moshi Town, was quoted by the party newspaper – *Uhuru* – as having

withdrawn from the list of those allocated plots in the psychiatric patients' area. This news made other members of the land allocation committee furious and view it as an act of betrayal, particularly because of the statement that appeared in the newspaper to the effect that he did not know that the area had been snatched from the psychiatric patients. When the committee member was required to give an explanation before the committee, he tried in vain to clear himself by convincing his colleagues that the newspaper had misquoted him. Eventually, the committee decided to reallocate his plot and ordered him to apologize to the committee in writing. The plot was then reallocated to a resident of Longuo B in exchange for his own land, which he had offered for an extension of Sokoine primary school in Longuo settlement as narrated by the resident:

... Fortunately, one of the allottees [the district party chairman] made some noise [an article appeared in one of the local newspaper saying that he was not part of the scandal taking the psychiatric patients' land] after the plots had been allocated. This made the committee to withdraw its offer of a plot to the chairman. This plot had, however, been earmarked for another influential person. Thank God I was at that meeting I pleaded so much to be allocated this plot for an extension of the school ... I argued as follows. The land being allocated is in Longuo [ward]. The residents of this area think that the government does not care for its people. If this land [being allocated] is in Longuo, why can't you show that you care for the school [requirement]. I am requesting this plot for an extension to the school's [land]. I was then asked, 'How will you use this plot [which is in a different location] to extend the present school area?' I said, there is one landowner who has offered to release part of his land for the school extension, on condition that we allocate him this plot. Fortunately my request was accepted.²³

Summary

This chapter has shown that despite the genuine struggle of the director of urban development to protect the public interest involved in this case of change of use, it was impossible to overcome the powerful interests behind it. However, it is interesting to note how the director's

apparently firm position in protecting the public interest wavered simply because the Ministry of Health yielded to the pressure to change the use of the land in question. Following the decision by the Ministry of Health to release the land, the director could legitimately maintain his position about the public interest, because as we saw earlier, there were other demands from institutional users. After all, this would have been in accordance with the planning legislation Cap. 378, government notice No. 678 of 1964, which was cited by the director when he first declined to approve the proposal.²⁴ The director's argument for disapproval might have been stronger if the planners in the region had substantiated such demands, something they did not do because of personal interests in the proposed change of use. They too readily accepted being used as agents of the powerful groups in rationalizing the displacement of the public interest to serve private interests. Safeguarding their position as civil servants, they were compelled to obey instructions from their superiors, and the expectation of being allocated a plot affected their personal interests, which made them ally themselves with the bureaucrats and politicians in the region. It seems that for the same reason as the first, the director of urban development sacrificed his legitimate technical-rational argument and succumbed to powerful interests, thus suggesting that technical-rationality does not matter in the face of power.

The decision to change use of the land in question to private residential use deprived the general public of Moshi Town and its hinterland of a scarce land resource. In monetary terms, and going by land market prices in 1996, a plot of 2,000–3,500 square metres would have fetched Tsh. 5–6 million. The 64 plots thus corresponded to a value of Tsh. 320–384 million. It is this value which the public of Moshi lost to benefit 64 influential private individuals, while the less influential continued to buy land for building at market prices. This amount corresponds to more or less the municipality's total annual revenue at that time. In other words, if the plots were sold by tender, the council could realize 50 per cent of its annual revenue. Looking at the same issue from another perspective, the 25 hectares of land which is now private property to only 64 households, divided into low- and medium-density plots of 2,000 and 3,500 square metres respectively, could benefit at least six times as many households, to be exact 392 households, assuming one household per plot on 400 square metres. This is normally the smallest plot in the regulated part of the

town, where most of the urban residents live. However, this estimate is really the minimum, because in high-density rental housing areas, the figure could average three to four households per plot, implying that 1,176–1,568 households could be accommodated in the area.

All the possibilities discussed above should have been addressed during the planning process, but as the planning exercise seems to have been carried out behind closed doors and to have focused on the rationalization of the change of use to meet specific private interests, the planners did not concern themselves with any of it. After all, who could challenge their ideas, given the fact that the urban planning committee, the legitimate organ which is supposed to monitor the planners, was used to “rubber stamp” the decision. Curtailing the committee’s powers seems to have been achieved by ensuring that the interests of the councilors who mattered – the members of the urban planning committee, who are also members of the regional land allocation committee – were taken care of by allocating them a plot each. Still, the change of use and the sharing of the land for the psychiatric unit could have been challenged by the general public had they been given the opportunity provided for by Sections 29 and 30 of the Town and Country Planning Ordinance Cap. 378. The general public was not given this opportunity because it is normally assumed that once the urban planning committee has ratified a planning proposal, the general public has done so automatically. Based on what we have seen, it has become increasingly evident that replacement of the general public by this committee leaves numerous conflicts of interest in respect of planning proposals unresolved, as well as giving an opportunity for some unscrupulous planners to pursue dubious deals within the planning system. This is because of the apparently low ability of the urban planning committee to scrutinize planning proposals objectively and competently before they are ratified. The situation is made worse by the planners, who can sometimes deliberately mystify such proposals by using technical drawings which the councilors cannot read.

This chapter has also shown how facts were changed to suit the justification required. Instead of acknowledging the fact that 67 acres of the land in question had been designated for use by the psychiatric unit, partly for buildings and the rest for the patients’ farms, it was restated that the land had been designated for building a regional hospital. We see in this instance how “power defines what counts as

knowledge”, which parallels what Bent Flyvbjerg observed in his study of “Rationality and Power” in the Danish town of Aalborg.²⁵ We have also seen in this chapter how planners were used as instruments of power in rationalizing the interests of the powerful group and how they stood for their personal interest at the expense of the public interests which ideally planning is supposed to safeguard.

In the Name of Employment Creation

We shall now turn to the second instance of land-grabbing, the revocation and change of use of industrial plot No. 76 block JJJ. This chapter shows how the land that is allocated free of charge encourages seemingly corrupt practices and becomes an object of attraction to private investors, some acting under the guise of employment creation, to cause revocation of the land rights of a public corporation. Despite the public corporation also having plans for employment creation, perhaps more genuine ones, the fate of its land rights was to be unfavourably decided in the pursuit of private interests. And unaware of these land-grabbing initiatives, the urban planning committee would ratify a change of use to cater for private developers other than the one behind the revocation. However, because this decision did not meet the private interests of the investor or the bureaucrats and politicians behind the process, the urban planning committee would be compelled to change its decision and instead to “rubber stamp” a proposal to suit these private interests, objections from the victimized public corporation notwithstanding.

On 1 April 1980, industrial plot No. 76 block JJJ, measuring 22.05 hectares, was allocated to the Textiles Corporation or TEXCO, a public corporation which, until it was dissolved in 1995, was responsible for the promotion of textiles industries in Tanzania. TEXCO had been out and about soliciting investment funds from different sources, including the World Bank and the Japanese Government. The intention was to build a textile mill on the plot under the name of Kibo Fabrics Ltd to produce denim products and corduroy materials for the domestic and external markets. A feasibility study for the textile mill had already been carried out and architectural as well as engineering drawings had already been prepared. Other actions included

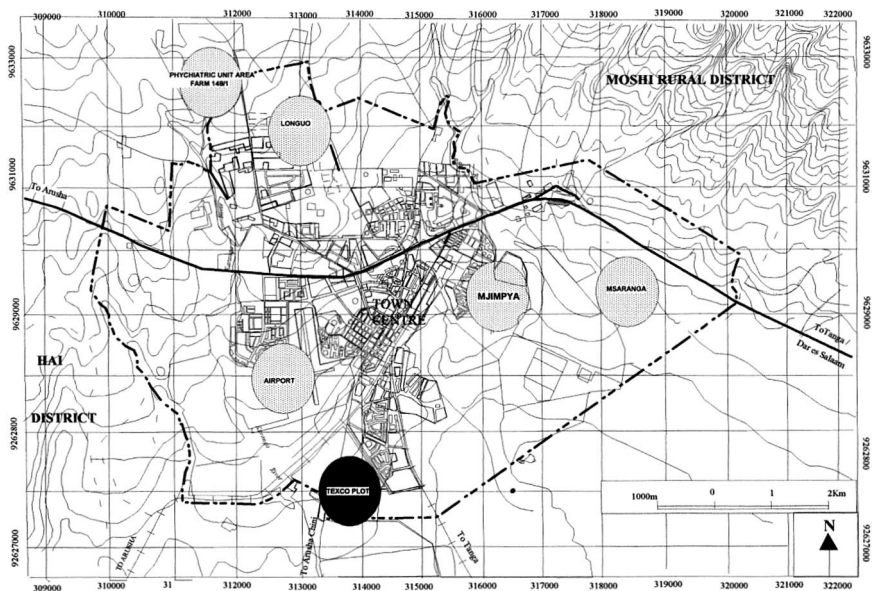


Figure 13.1: Industrial plot No. 76 block JJJ

contacts with other textile mills in the world such as Levi and Maurer in pursuit of a joint venture.¹

Revocation of Land Rights of a Public Institution

On 9 January 1992, the regional land development officer, who was also the secretary to the regional land allocation committee, initiated a process to revoke the right of occupancy of plot No. 76 block JJJ in Moshi municipality.² This followed issue of 28-day notice No. MMC/LD/76/JJJ/III of 15 October 1991, sent to TEXCO requiring it to explain why its right of occupancy of that plot should not be revoked for its not having developed the plot over the previous 11 years.³ Just over 2 months later, the corporation wrote to the regional land development officer to explain the problems which had been hindering the intention to develop the plot and the efforts being made to secure a bank loan and plant from outside the country.⁴

Although the corporation was left thinking that the authorities in Kilimanjaro region were convinced by this explanation, the intention to revoke the plot had been retained. Subsequently, 9 months later,

the regional land allocation committee proposed revocation of the right of occupancy of the plot.⁵ Acting on this decision, just over 2 weeks later, the regional development director, who was also the chairman of the regional land allocation committee, wrote to the principal secretary, Ministry of Lands, Housing and Urban Development, requesting him to facilitate the revocation of the right of occupancy of the plot. He argued that;

Following numerous applications from foreign clients, who are ready to develop industries there (on plot number 76), the benefits being the employment of more than 400 people and the export of goods outside the country, we bring you this [revocation] proposal.⁶

It transpired that the revocation had been prompted by an Asian industrialist who wished to set up a greenhouse for a floriculture project. This developer had contacted the regional authorities in Kilimanjaro and the commissioner for lands in Dar es Salaam to be allocated plot No. 76 block JJJ. The developer had gone to the lengths of engaging consultants to prepare a site plan for the plot. This had been disclosed by the developer in one of his communications with the commissioner for lands, which was copied to the minister for lands, housing and urban development and the regional land development officer.

During our [previous] discussion we were assured that the revocation procedure would be [completed] in two weeks time. Until today we have not received any official notification from the regional land development authorities in this regard. We enclose herewith our revised site plan for the above mentioned plot.⁷

To press the authorities to speed up the process of revoking and allocating the land to him, the developer continued to write:

The undersigned [the developer] is planning to visit the Netherlands on 5 September 1993 to discuss with the project consultants. His visit will be useless if the issue of land has not been finalized with your ministry.⁸

One month later, the right of occupancy for plot No. 76 block JJJ was revoked.⁹ Following the revocation, the regional land development

officer wrote to the municipal director to inform him that because TEXCO had failed to develop plot No. 76 block III, the land allocation committee intended to reallocate the plot to other developers who had indicated an interest in developing it. He cited these developers as MS Kaps Anthurium Farms Ltd and Crate Manufacturers Ltd. The land officer also told the director that Mount Kilimanjaro school, which had been operating out of the Moshi textile factory buildings, had submitted an application to him for 18–20 acres of land. This would enable the school to move from the factory buildings before a notice of vacation that the school had been served with by the factory owner elapsed. To help the school get out of this problem, the land officer continued to inform the director that the regional development director had instructed the council to initiate a process of change of use for the plot and to divide it, so that the school received part of it and the rest be allocated to the two companies mentioned earlier.¹⁰

Ratification of the Change of Use and Reallocation of Land

Two months later, at a meeting of the urban planning committee, it was reported by the council planning officer that plot No. 76 block III had been *surrendered* to the government by the Textiles Corporation. The truth, however, as we have just seen, is that the plot was not surrendered. It was further reported that Kaps Anthurium Ltd and Mount Kilimanjaro school had submitted applications to be allocated the land. In addition to these applicants, there were two others: Oxco Tanzania Ltd and the Centre for Informal Sector Promotion (CISP), which wanted the land to build a hostel for trainees. The council planner then asked the committee to approve a change in land use for that plot so as to permit other uses as requested.

Basing itself on the information provided, the urban planning committee agreed the proposed change in land use and recommended allocation of the land to the following applicants: Mount Kilimanjaro school and CISP. The committee rejected the application of Kaps Anthurium Ltd to grow flowers, as well as that of Crate Manufacturers Ltd. The disapproval of the floriculture project hinged on the fact that land was in short supply in the municipality. In an interview with one councilor, a member of the urban planning committee, he said, “We could not accept the application because it entailed farming in

town. We do not have land for building, so how could we allow farming? What would we tell the people?"¹¹ It was subsequently decided to allocate the crate manufacturer and other applicants industrial plots in Shirimatunda industrial area, the main argument being that having ratified the change of use of plot No. 76 block III from industrial to institutional, it would not be environmentally safe to mix industrial with residential or institutional use.

This decision annoyed the developer, Kaps Anthurium Ltd, who had been lobbying to be allocated the whole plot for a floriculture project. He therefore decided to appeal against the decision to the prime minister, although the relevant minister for handling appeals on land matters is the minister for lands, housing and urban development. The latter was, however, given a copy of the letter. In his appeal, the developer claimed that:

... This morning, we called to see the Regional Commissioner and the Regional Development Director (RDD), who is also the chairman of [the] Land Allocation Committee in Kilimanjaro Region. ... We were surprised to learn that the particular site we had applied for is now earmarked for social [facilities] and an industrial sector. Originally this area was exclusively reserved for industrial [use]. If the authorities in Kilimanjaro Region can change their [land use] plan to social and industrial [use], why cannot they change it to industrial and agro-based industries? We do not see any reason to have social amenities [located in the industrial area]. This could affect health and environment at the expense of human beings. ... The reason for having this project established within the municipality of Moshi is to avoid infrastructural costs such as roads, powerlines, houses, etc. ... If we do not get this land, our investment costs will increase by US\$ 6.0 million.¹²

Once again, in an attempt to persuade the authorities to allocate the land to him, the developer, continued to assert that:

Our foreign investors and people from. . . are planning to visit us during the second week of January 94 to investigate the land issue and carry out the final feasibility study for the European Development Bank. . . . At this juncture we cannot afford to request them to cancel their visit. . . . This will jeopardize the whole project. This is a hundred per cent export-oriented industry.

It will generate approximately US\$ 18.0 million per annum in hard currency. It will create job opportunities for two hundred people. We thought we were going to be allocated the land and went out of our way to have it surveyed. This has cost us Tshs. 5.0 million in survey fees....¹³

Meanwhile, as required by the planning procedure, the proposal for change of use and the decision as to who should get what as ratified by the urban planning committee had been submitted to the regional town planning officer for his comments, before forwarding the same to the director of urban development for approval. Seven days later, having studied the proposal, the regional town planning officer gave his dissenting views on the proposed land use change.

(a) Moshi Master plan 1974–1994 zoned areas for various uses to avoid haphazard development which could be detrimental to the environment and lives. The Master plan zoned areas for residential, community facilities, industrial... the purpose of separating land uses is to produce harmony in land development. Some of the areas designated for certain uses indicated above have not been fully developed; for instance areas zoned for community facilities in Msaranga and Shirimatunda.

(b) The plot in question is close to a pesticide factory and there are many other industries which have yet to be built ... to locate community facilities in the plot in question will be unsafe for the students and their teachers.

(c) The Town and Country Planning Act Chapter 378 prohibits mixing land uses....¹⁴

On the basis of these arguments, the regional town planning officer recommended rejection of the proposed land-use change for plot No. 76 block JJJ and urgently forwarded this to the director of urban development. His recommendations were as follows:

Designated industrial use on plot number 76 block JJJ should remain unchanged, while schools and other institutions should be located on areas zoned for institutional and community facilities in Msaranga and Karanga wards.... All applications from public corporations and government should be dealt with by the region in accordance to the procedures for land allocation....¹⁵

Just over a month later, the regional land development officer wrote to the regional town planning officer to inform him that the decision to allocate the plot in question as proposed by the urban planning committee had caused conflict. In explaining the source of this conflict, the regional land development officer said, “The conflict is a result of applications which were received when the first applications were been processed, and also of shortage of plots in Moshi Town.” He proceeded to say that the applicants wished to be allocated land as follows: [Kaps] Anthurium Farms Ltd 36.58 hectares; Crate Manufacturers 17.89 hectares; Mount Kilimanjaro school 18–20 hectares; Oxco Tanzania 5 hectares; CISP whole plot; and Clementina Foundation, an area to exchange with the owners of plots adjacent to their school, so that these owners can release their plots for teachers’ housing. The land officer claimed that 2 weeks earlier he had been summoned by the regional commissioner, who verbally instructed him how the plot should be shared among four of the applicants, i.e. excluding Crate Manufacturers and Oxco Tanzania.¹⁶

Objection by the First Land-Rights Holder

The following day, the municipal director received a letter from TEXCO acknowledging that they had received a letter, reference No. KLD/JJJ/V/76/F44/VK, dated 18 October 1993, from the regional land development officer, stating his intention to allocate the plot to other developers. With this letter, TEXCO objected to this proposal and requested the municipal director to halt the process due to the commitment already made by the corporation in respect of the development of the plot.¹⁷

In the meantime, the director of urban development had received the letter from the regional town planning officer. Upon receiving the letter, he assigned his planning officers to give attention to the proposal from Moshi municipal council, and cautioned them to be “extra careful with proposals for the subdivision of plots [because] this has serious implications in practice”. A planning officer in the urban development directorate took 2 weeks to carry out this assignment. Finally he wrote to the regional town planning officer to request a drawing showing the plot’s present use and proposed land-use change. Four days later, the letter was received in the regional town planning office at Moshi.

Two weeks later, on 8 February 1994, the regional town planning officer responded to the letter from the ministry by sending two proposals, one as earlier proposed by the council, and a second one as later proposed by the regional authority, stipulating how the land should be allocated:

- (a) Mama Clementina Foundation 1.0 hectare
- (b) Mount Kilimanjaro School 6.8 hectares
- (c) Centre for Informal Sector Promotion 4.0 hectares
- (d) Kaps Anthurium Farms Ltd. 10 hectares.¹⁸

On 18 March 1994, the member of parliament for Moshi urban constituency, who is also a member of the regional land allocation and urban planning committees, wrote to the chairman of the land allocation committee about the application by Kaps Anthurium Farms Ltd. Being a member of the urban planning committee, he had been party to the decision to object the application of Kaps Anthurium Farms Ltd to be allocated part of the plot in question. In the following letter, however, he seems to have turned round 180 degrees in support of the applicant. In the letter, he also alluded to the high-level political support behind Kaps Anthurium Farms Ltd, and sent copies of the letter to the prime minister, the minister for lands housing and urban development, the regional commissioner and the municipal director.

... After reviewing the feasibility study of Kaps Anthurium Farms Ltd, it has been revealed that the project is not detrimental to the environment and could coexist with the institutions intended... considering the high rate of unemployment in Moshi municipality, a project which might employ at least 300-plus workers is a welcome proposition and requires our support. Secondly, in terms of the economy, it appears to be a project that will earn the country much needed foreign exchange.... Finally, I do not see why we should object to the Prime Minister's advice to allocate part of the plot to Kaps Anthurium Farms Ltd....¹⁹

Ten days later, the regional land development officer wrote to the municipal director in connection with the letter from the member of parliament. The purpose of this communication was to inform the latter

how higher authorities wanted the plot in question to be shared among some of the applicants.

As elaborated in the letter, and following the instructions of these higher authorities, [the allocation of the] plot... should be as follows: Community facilities:

- (a) Mount Kilimanjaro School Ltd. 16 acres
- (b) Centre for Informal Sector Promotion 10 acres
- (c) Mama Clementina Foundation 2.5 acres.

Industry: 25 acres should remain industrial, and consideration should be given to Kaps Anthurium Farms Ltd for a greenhouse, which is agro industry.... (Moreover) a meeting of Urban Planning Committee should be convened before 30 March 1994 to reconsider [its earlier decision on] this issue... on the basis of which Regional Land Allocation Committee should meet on 31 March 1994 to work on that decision.²⁰

The same day, the municipal director wrote to the council planning officer, who was also the secretary of the urban planning committee, requiring him to convene an emergency meeting of the committee 2 days later at ten o'clock in the morning so that the decision of the committee could be submitted to a meeting of the regional land allocation committee to be held the following day. In the letter, the director contended that

... my record shows that no application for land in this area has been received from MS Kaps Anthurium Farms Ltd.... Subsequently, the Urban Planning Committee will need to see a letter of application which should also indicate the activities intended to be carried out by the applicant. In general, however, it should not be allowed to mix training activities and noisy industries.... Prepare a proposal of how the land is to be distributed to the applicants as recommended by the Regional Development Director...²¹

The council planning officer did as instructed, including asking the applicant MS Kaps Anthurium Farms Ltd to write a letter applying for land in the area. This was written the same day, but received by the council the day the urban planning committee met. The letter of

application provided details and justification of the proposed project as follows:

... Anthurium is a Floriculture product which is in very high demand on the European Community market and also in Far East countries. The [objective of the] proposed project is to grow anthurium on a commercial scale in Tanzania and export flowers to European Community markets... We intend to establish this project in Kilimanjaro region due to the fact that the climatic condition of Kilimanjaro region matches those recommended for Anthurium. This project is 100 per cent export-oriented. The project is proposed to be established under the new Investment Promotion Act ... [and is] expected to provide employment for 42 Tanzanians in the first year... by year 7, the project will provide employment for 179 Tanzanians....

By the end of that first cycle the total area under cultivation of Anthurium will be about 17 acres.... On the successful completion of the first cycle, we would like to expand the project by adding two more cycles so that the total area under cultivation will be about 30 acres. Apart from the area under cultivation, we also require land for offices, staff houses... The area of land required for this purpose is estimated to be 50 acres. Thus the total land requirement for this project is 75 acres. Taking into consideration all the aspects of the project, the ideal land for this project will be a site of 75 acres at Sukari road... Plot number 76 block JJJ.... We will be able to present our application to the Investment Promotion Council for the approval of the project only after the allocation of the land for the project.²²

On 30 March 1994, at 15 minutes to noon, seven councilors, all members of the urban planning committee, and ten officials assembled in the municipal council hall. Among them there were two representatives of MS Kaps Anthurium Farms Ltd. Some of the councilors who had objected to the decision were not present because they did not receive an invitation to attend the meeting in time. "I missed the meeting because the notice of the meeting was brought to me late. They knew that I would object to the decision", remarked one councilor, a member of the urban planning committee.²³ Among the councilors in attendance was the member of parliament for Moshi urban constituency. This was an emergency meeting prompted by an instruction

from higher authorities requiring the committee to reconsider a decision made 4 months earlier in respect of plot No. 76 block JJJ. For the next hour, the members of the committee sat down to reject their own decision and to rationalize a decision that had already been made by the regional authorities. After the chairman of the committee had extended a word of welcome to those attending, the secretary to the committee, the council planning officer, introduced the two representatives of Kaps Anthurium Farms Ltd. He then introduced the agenda of the meeting, reminding the members of the background to the plot in question and the decision the same committee had reached 4 months earlier. However, he said:

Considering instructions from higher authorities, the committee is advised to reconsider its decision on land-use change of this plot to permit community facilities and industrial use²⁴

Afterwards, the municipal director said that the council could only provide Kaps Anthurium Farms Ltd with 25 acres, not 75 acres as requested. The representative of the company accepted the offer and claimed that they were doing so because of the land shortage in Moshi Town. They emphasized that they were interested in the area because of the suitability of its soils and climate for the intended project. Because this was an emergency meeting purposely held to consider the case, the company paid the costs involved.²⁵ The following day, the municipal director, having made the decision required by the regional authority, submitted it to the regional land development officer. In his letter of submission, the director said:

... In short, the meeting [of the urban planning committee] has proposed that the 54.428 acres of land be reallocated as follows:

Having [received] this proposal from the Urban Planning Committee, I request the regional and national authorities to end this conflict so that the land concerned can be developed.²⁶

The regional land allocation committee did not meet at the end of the month as scheduled, but only 3 weeks later. In presenting this proposal, the secretary said:

... a meeting of Urban Planning Committee held on 30 March 1994 proposed a change of [designated] land use [on plot

76 block III], [and the] subdivision and allocation of the land as proposed. . . . In addition to other requests for this land, a request from Kaps Anthurium was supported and approved, considering that the project will be beneficial to the residents of Moshi in terms of employment to youths and the new technology of growing flowers in a greenhouse. . . .²⁷

As this was the first time that this proposal had been presented to the committee, it was debated for a long time. Eventually, however, the proposal was approved as presented. One and half months later, the council planning officer submitted it to the regional town planning officer, ready to be forwarded to the director of urban development for approval.²⁸ This was the second proposal made concerning the same plot in less than 6 months.

The Planner in a Dilemma

The regional town planning officer forwarded the proposal, together with the relevant minutes of the urban planning committee, to the director without comment.²⁹ When the proposal was received in the directorate of urban development, the first thing to be noted was that the comments of the regional town planning officer were missing. Consequently, a letter was written to require him to furnish the director with his comments.³⁰ While the comments of the regional town planning officer were being solicited, the regional land development officer decided to follow up approval of the proposal personally in the directorate of urban development in Dar es Salaam. This did not, however, make the directorate waiver in its stance. Having taken the necessary time to study the proposal, towards the end of July 1994 the director of urban development wrote to the regional town planning officer as follows:

I have considered the proposal to change use of that area . . . and have realized that shortage of land in Moshi municipality was not considered at all . . . in Minute . . . [of the meeting of November 1993], the request of Kaps Anthurium Farms Ltd. Without a convincing explanation, it has now become acceptable to allocate them 25 acres for construction of a flower factory. This is not a factory because the applicants concerned had indicated in

their request that they needed the area because of the suitability of its soils [for growing flowers]. It is written in the minutes that the decision was reached because of pressure from higher authorities. That pressure meant that professional ethics could not be considered.... Although I don't know which level of authority (was involved), the fact remains that [under] Government Notice number 10 of 5 February 1993, developer can be granted use rights to a maximum of 3 acres, in areas not suitable for urban development. Therefore that plot was not supposed to be allocated as a farm even if it is a greenhouse.... You have (thus) not substantiated the change of use for that area to the extent that you can have a flower farm in town instead of the rural areas.³¹

This response was unacceptable to the council and the regional authorities. The municipal council decided to appeal to the minister for lands housing and urban development, who was responsible for planning matters. Exactly a month after the director for urban development wrote the letter questioning the justification for the proposed change of use, a strong delegation, comprising the mayor, the member of parliament for Moshi urban constituency and the council planning officer, travelled to Dar es Salaam. The following day they met the director of urban development over the issue. The main issues raised by the directorate for the disapproval of the proposal were pointed out in the letter written to the regional town planning officer.

Approval of the Change of Use

Eventually, it was agreed that Kaps Anthurium Farms Ltd would be allocated only 17 acres to provide what they needed for their phase-one development. After that phase they could look for land in the villages. It was also decided that the rest of the land that had been designated for the company should be used for informal sector activities. Furthermore, because of these adjustments, the layout previously submitted for approval should be redesigned to accommodate the changes. That same day, the director of urban development recommended the minister to approve the change of use of plot No. 76 block III as agreed at the meeting.³² The minister did as he was advised.

Following the approval of the change of use and the plan, on 29 September 1994, Kaps Anthurium Farms Ltd and other developers

who had been allocated the land on plot No. 76 were served with a survey fee notice by the regional land development officer, requiring them to pay the government's survey costs to facilitate the survey, which had not been done as claimed earlier by Kaps Anthurium Farms Ltd, when they were lobbying to be allocated the whole plot. Kaps Anthurium Farms Ltd were required to pay Tshs. 2.8 million for the surveying of 17 acres or 68,800 square metres of land, at a rate of Tshs. 41 per square metre.³³ Although the capitalist claimed that he had spent Tsh. 5 million to survey the land, when he was given an invoice for the survey he complained that the quoted survey fees were too high.

Summary

This chapter has shown yet another land-grabbing operation, this time by a private investor who in his own words enjoyed being a free-rider of the public infrastructure and of land whose value the government disregarded in official transactions. The developer knew very well that in being allocated this land he was saving money to the tune of about Tsh. 80 million, which he would have had to part with had the 17 acres been bought at the prevailing market price. No wonder, therefore, that he used all possible means, including cheating and lobbying higher authorities, to ensure that he was allocated this land. We have again seen how the urban planning committee swiftly reconsidered its earlier decision to rubber stamp and rationalize a decision which had been pressed by higher authorities through some of its members. For the first time we have seen the officer in-charge of planning in the region challenging and recommending to the director of urban development that he should reject the change of use for substantive environmental and bureaucratic legal reasons. Although, in his arguments against it, the planning officer seems to have been unconscious of the shortage of land in the town in view of the proposed change of use, the planners in the directorate of urban development added this consideration in disapproving the proposal. Despite all these arguments, eventually the change of use was approved, once again showing that it is not so much the technical-rational arguments or technical-rationality which matters, but actors' interests and the alliances and power relations between them.

Having seen the preoccupation with planning in the Moshi case in the 1990s, we shall now rejoin the Msaranga residents to see what happened to their intention to turn back to the political-administrative system. At the time we left them, they wanted to pursue their issue with the minister for home affairs, believing that he could resolve their dispute. At the same time, they were waiting for a ruling concerning the legal suit against the council. The next chapter will take us through these struggles, which are still aimed at protecting their land rights and other interests in land.

Chapter 14

Guilty of Illegal Practice

*Justice is the first virtue of social Institutions, as truth is of systems of thought*¹

Jeff Rawls

*A government in accordance with law is likely to be fairer, more respected, more effective in the long run than government in defiance or in disregard for the law ...*²

Patrick McAuslan

Finally, before joining the Msaranga residents in the district magistrate's court, where the law suit came to an end, we shall view their attempt to seek the help of the minister for home affairs. The director of urban development will also enter into the picture, trying to obtain information on the Msaranga land dispute from the regional town planning officer. In his response to the director, the planning officer's view about this dispute will become apparent. We shall then turn to the lawyers to examine their interpretation of the dispute and eventually the court ruling of this 10-year-old law suit.

Changed Political Context

The 1990 general election brought into the Parliament a very articulate Member of Parliament for Moshi rural district. Because of his outstanding performance as an MP, the President appointed him as the minister for home affairs, and eventually, in addition to this portfolio, he is appointed as the Deputy Prime Minister. The minister's pragmatism and commitment in standing up for the interests of disadvantaged groups in the society made him very popular across the country. Msaranga residents, like many other citizens whose interests had been suppressed, joined the queue to see the minister. Their confidence was

no longer in the political-administrative system, but rather on him as a person who could put the otherwise insensitive system back to work. As one resident remarked, "We have seen him making things happen. We thought we should try him."

During one of the minister's visits to his constituency, the Msaranga Residents' Committee reported their dispute to him. After reporting the matter, the minister asked them to bring him all their letters of complaint and any other relevant evidence of the dispute. "We collected virtually everything we had on record and took it to the minister, but nothing has happened until now", remarked one of the members of the Residents Committee during an interview with the author. In an eight-page letter dated 26 July 1991, the Committee, on behalf of the residents of Msaranga, provided an elaborate description of the background and source of the dispute, the steps they had taken and their basic claims, as already covered in the account. Some of the village leaders, having attended more than 10 court sessions concerning their case and not knowing why the matter remained unresolved, told the minister that

This matter is still in the High Court at Arusha for purposes of having the law interpreted before granting us our rights. We do not know who is restraining this matter and the court. Perhaps it is the urban council, in order to buy time, so that the landowners get tired while at the same time they are using propaganda to entice them to sell their land on fear of being deprived by the town ...³

Unlike their previous letters to the party and government leaders, which ended with the slogan "Long live *Chama Cha Mapinduzi*", this time the ending reads "Freedom and Human Rights".⁴ Very much against their expectations, the residents did not receive any response from the minister. Hoping that he would do something in their interests, 3 weeks later the former chairman of Msaranga wrote to the minister regarding his dismissal from the leadership, which he considered to be oppressive. Apart from mentioning the charges raised against him, he emphasized the non-involvement of the residents in the decision to extend the boundaries.

... This decision did not involve the villagers (or) the village government concerned ... this is contrary to the constitution of the *Chama Cha Mapinduzi*, Section 5, which says that: "every person has the right to have from society security of his life and property ..."

That security, which citizen deserves, should include their *vihamba*, which are held under the customary tenure system. Section 8 says, "... by using meetings, citizens have the right to *participate fully* [emphasis in the original] in reaching decisions on national matters as well as him/herself and freedom to contribute [his/her] own opinion ..." Therefore, in deciding to extend the town [boundaries] and incorporate villages or parts of villages into the town, no resident was involved nor their village government, pursuant to the particular sections of the law indicated above ... Section 16 says, "In our country there is no form of deprivation, threats, apartheid, corruption, humiliation and oppression or nepotism." Immediately after the survey had begun, some of the *village leaders of Kikarara were arrested* [emphasis in the original] and put in custody, and a legal suit was filed against them in the court. [At the same time] survey work proceeded under the barrel of a gun [emphasis in the original]. This shows that force, threats and oppression were used.⁵

Two weeks later, in accordance with the court schedule set 3½ months earlier, the Msaranga case came up for hearing. However, the plaintiffs were not present, and their counsel subsequently asked for an adjournment. The counsel for the defence made no objection to this but petitioned for the day's costs, which the court ordered as petitioned. No date was fixed for the next hearing.⁶ Three days later, counsel for the defence wrote to the Moshi municipal director to inform him about Civil Case No. 52/89. He informed him that since the next hearing date would be a long way off, because the court calendar for the year was already full, he was advising the council to proceed with the survey of plots in the disputed areas. After all, "the application for a court injunction had been dismissed way back in 1984 ..." He also needed information about the people and properties involved in the disputed areas.⁷

In 1989, the directorate of urban development got a new director to replace the one who had been there for almost 15 years. This new director required information about the Msaranga land dispute from the regional town planning officer in Kilimanjaro. Therefore, in September 1991, he wrote to the Kilimanjaro regional town planning officer to seek information about the Msaranga land dispute.⁸ The Kilimanjaro regional town planning officer replied to the director's letter 13 days before the end of 1991. He began the letter with a paragraph of apology to the director for the lateness of the reply, which

he claimed had had to involve the municipality office and Msaranga village. The regional town planning officer reported the results of his investigation, starting with major events in the dispute:

(a) The Moshi Master Plan 1974 incorporated Msaranga village (in the planning area). (b) Moshi [municipal] boundaries were officially declared on 9 November 1979 [30 June 1978, amended 9 November 1979], Government Notice no. 117. (c) Government Notice no. 134 of 2 September 1983 listed all villages on mainland Tanzania and moved Msaranga village to Moshi municipality ... Another interpretation of (b) above is that the law caused an overlap of boundaries ... [Despite this] Moshi municipality did not object to this overlapping of municipal and village boundaries ... (f) Moshi municipal council prepared a [detailed] land-use plan (town-planning drawing) for Msaranga village, and a survey commenced in the end of 1983. (g) Msaranga villagers strongly protested against this action of incorporating the village into the Moshi municipality and [carrying out cadastral survey]. Subsequently, they [residents] embarked on legal action against Moshi municipality. (h) From 1984 till today[,] there have been communications between Msaranga village leadership and that of the municipality, regional administration and ministry of local government, then to His Excellency President Nyerere, regarding the legal grounds for the village to be a part of Moshi municipality. A legal suit regarding the legality of Msaranga village being a part of Moshi municipality is still in the High Court at Arusha⁹

Then the regional town planning officer observed that:

Moshi municipality was satisfied with Government Notice 134 of 1983, which removed Msaranga village from its jurisdiction ... otherwise it would have objected to this action within the proper time ... Although Msaranga village is in the planning area [of Moshi municipality], acquisition [of land] and compensation has not been effected (Chapter 378, Section 45) ... Msaranga village and others in old Moshi west ward [occupy] prime agricultural land which feeds many people ... Very little of the Moshi Master Plan has been implemented, otherwise Msaranga village would not have been included in rural wards The dispute would be resolved if the government amended Government Notice 134 of 2 September 1983 ... and included Msaranga

village in the jurisdiction of Moshi municipality, and Chapter 378, Section 45, should apply. The Moshi Master Plan needs to be reviewed in the light of time and events ... Moshi municipality should start negotiations with Msaranga village leaders, among others, to educate the residents of that area on the expectations and objectives of the government.¹⁰

Although the planning officer claimed to have needed time to carry out his assignment, his report demonstrates that he was unaware of the fact that not all parts of the villages affected had been incorporated into the administrative boundaries of Moshi Town. His assumption that the dispute could be resolved by amending Government Notice 134 is too simplistic, considering the strong arguments advanced by the residents of Msaranga against the extension of the town's boundaries and the plot survey in their area, which the council planners could not counter to justify their interventions. Implicitly, the planning officer's assumption that "the dispute would be resolved if the government amended Government Notice 134 ..." shows him to be in favour of Msaranga becoming part of Moshi Town. This contradicts own observation that Msaranga village land constituted prime agricultural land, which fed many people.

Eight Years Later: The Suit Was Wrongly Filed in the High Court

Eight years had passed since the case began in the High Court at Arusha in mid-1984 and a year since its last hearing. During this year, important events occurred. One was the triumphant return to office of the former chairman of Msaranga, who had been banned from leadership for 5 years from 14 August 1985. He had served this punishment, but his re-election to the same office as party branch chairman for the whole of Msaranga ward was a telling story within this story. During the party elections of 1992, the residents of Msaranga persuaded their former chairman to contest the post of party chairman in their area. The chairman said

I agreed to take the nomination forms, fill them out and return them to the district party office, together with two other candidates. After scrutinizing the names of the candidates, I was not nominated. Only the names of the other candidates were brought

back. On the election day, the electors asked, "Why is ... [name mentioned] not here?" The answer was "He is not fit." The residents said, "It is we who know [who is fit or unfit], how can the district [authorities] know better than us?" The ballot papers were then distributed and the votes cast. I remember that 206 people registered for the election. One candidate got 18 and another 4 [votes]: other [votes] were spoiled. As nobody got one-third of the total votes cast, the election had to be repeated. Residents demanded all the names back, otherwise they would not vote. The elections were repeated in 1993. We were two candidates. Out of the total of 158 votes cast I got 131 votes, the other candidate got 26 [votes] and one paper [vote] was spoiled ...¹¹

Another important event that occurred was that the lawyer who had been acting as counsel for the defence from the time the suit had been filed left his employment with the Tanzania Legal Corporation and joined a private practice, while the plaintiffs dropped their second lawyer because they were dissatisfied with his performance. Instead, they engaged a lawyer from a private office which the lawyer for the defence had joined after quitting his job with the Tanzania Legal Corporation. At the present hearing, the former counsel for the defence thus found himself in the position of representing the plaintiff on behalf of his colleague, who was sick.

I cannot prosecute the case because I have had insufficient notice to prepare it, and more importantly, I handled the brief for the defendant when I was with Tanzania Legal Corporation. It would therefore be unethical of me to prosecute the plaintiffs' claim. I pray that the hearing be adjourned pending the recovery of Mr¹² For ethical reasons, he submitted that:

One and half weeks later, when the case came up for hearing, the counsel for the plaintiffs was still sick. His colleague, the former counsel for the defence, represented him again. He petitioned for the matter to be heard by the judge in chamber for orders. The court ordered as petitioned, and the hearing was fixed for 30 October 1992.¹³ Twenty-two days later, the High Court at Arusha issued an order that:

The suit is marked withdrawn as petitioned by the counsel for the plaintiffs. The defendant is to have the costs of the suit.¹⁴

Ten days later, the scheduled hearing of the suit marked its conclusion in the High Court at Arusha as petitioned by the Counsel for the plaintiffs.

My lord, I pray for the suit to be marked withdrawn because it was wrongly filed in the High Court ... the same should have been filed in the district court.

Counsel for the defence:

My lord, I have no objection to the prayer, but I humbly pray for costs.¹⁵

Three months later, following the court order, plaintiffs' counsel applied to the court for leave to file the suit in the district magistrate's court at Moshi instead of the primary court as the law required. There were two reasons for preferring the district magistrate's court:

(Firstly) the subject matter of the suit is land held under customary law and the same is supported by an affidavit deposed to and filed by Mr ... learned advocate. The matter involves several difficult points of law which a primary court magistrate will not be able to comprehend. (Secondly) the three village councils have filed this application and have engaged a counsel to represent them in the intended suit. However, advocates have no audience in the primary court.

Judge: ...

Application for leave of this court to commence a suit in the court of the Resident Magistrate at Moshi ... is genuine and meritorious, the same is granted No order for costs, as the application has been heard ex-parte and the same was not contested.¹⁶

This made the people of Msaranga furious. The secretary of the Msaranga Residents' Committee could not contain himself. He decided to write to the President to express how discouraged he felt by the way the dispute had been handled by the government machinery

and by actors who were being paid by the taxpayers. He virtually wrote whatever came into his mind, such as:

We did not fight for (political) independence so that we should torture and tactfully kill one another... Amazingly, we are cheated [in being told] that our judicial system is independent; why has it failed to help us ...?¹⁷

On 7 April 1993, counsel for the plaintiffs filed a complaint more or less similar to that which had been filed in the High Court at Arusha in 1984. The only alterations were that "The plaintiffs are each registered and incorporated under the provisions of the Villages and Ujamaa Villages Act 1975, and at present derive their continuous existence under the Local Government (District Authority) Act 1982. They can sue and be sued." The complaint also excluded the absolute values of compensations that had been specified in the 1984 complaint.

Three weeks later, the regional land allocation committee convened. Its members were briefed on the issue of the Msaranga case, which was still in the court undetermined. The members agreed that the municipal council should take urgent measures to persuade the residents of Msaranga and all others incorporated within the town boundaries to allow the parcelling of their land into plots and a survey. Moreover, in view of the resistance the municipality was facing from landowners in the said areas, while the land allocation committee had no plots to allocate, the committee recommended the identification of other potential areas for subdivision. The Karanga prison area was pointed at as one such area.¹⁸ An attempt to change use of the prison land from institutional to residential use is covered in Chapter 11.

Two days later, the district magistrate ordered the defendant, the municipal solicitor, to file a written statement of defence before the next hearing of the case, which was scheduled for 3 weeks later.¹⁹ The case came up again at that time, but counsel for the defence had not filed the defence as required. The counsel for plaintiffs then petitioned to prove the claim *ex-parte* by filing an affidavit, which the court ordered as petitioned.

... In the interests of justice, I allow the plaintiffs to prove the claim against the defendant *ex-parte* by filing an affidavit. Affidavit to be filed on or before 18 June 1993. Hearing on 18 June 1993.²⁰

The case came up as scheduled on 18 June, but because the statement of defence had not yet been filed, the hearing was postponed to 25 August 1993. By then, the statement of defence had been filed.²¹ The statement was similar to that filed in the High Court at Arusha in 1984, as seen earlier. The case came up again nearly 2 weeks later, but counsel for the plaintiff was absent. Counsel for the defence petitioned for a hearing 3 weeks later, which the court ordered as petitioned.²² The case was heard on the scheduled date, and both the parties were represented. However, the counsels jointly agreed to petition for a later hearing to allow them to agree on the issue to be determined in the case. The court ordered the hearing to take place 1½ months later.

Agreeing on the Issue to Be Determined

Having considered the claims raised by the plaintiffs and the defence and having consulted their clients, counsel for both parties agreed on one issue in the claim and dropped the rest. Submitting this to the magistrate, the counsels said:

Your honour, we counsels for both parties have agreed after consulting (our clients) that the prima facie issues to be determined in this case is whether the acquisition by the defendant of the plaintiffs' land is lawful in respect of Government Notice no. 117 [of] 1979, Government Notice no. 211 [of] 1988 and Government Notice no. 42 [of] 1983 and 134/83. That is the issue to be determined. After this issue is framed, that leaves out all claims for compensation in the way of ...²³

Then the counsels petitioned together for "time to submit on the question of land in writing". Both submissions could be made before the end of 1993. The application was granted by the court as petitioned, and submissions were ordered by the dates specified.²⁴

Meanwhile, a month later, it was reported in the regional land allocation committee that the court had permitted the municipal council to proceed with all development activities in Msaranga area. Also, some of the residents had indicated their intention to allow a survey to be carried out in the area, provided the plots which fell on their land were allocated to them. The members of the committee were also informed that the changed position of the residents was a result

of the efforts of a ward councilor to persuade the landowners. It was also reported that a meeting of the urban planning committee held 3 months earlier had agreed to commission Tropicales, a private design company, to carry out a detailed survey of the area. The company was co-owned by the councilor for Msaranga ward.²⁵

On 29 December 1993, the defendant's counsel presented his submission in reply to the submission which had earlier been submitted by the plaintiffs' counsel. Although the agreement reached between the counsels 2 months earlier had been that certain claims should be abandoned and that the question to be determined was whether the acquisition was lawful or unlawful, defence counsel reported that:

On 16 November 1993, we were served with a copy of plaintiffs' submission which, upon reading it, we came to notice that extensive new matters have been brought into the case. May we pose here to clear the position of the law that parties are bound by their pleadings Your honour will timely take note that it is nowhere in the pleadings, and in this particular case, in the prayers where the plaintiffs challenge the constitutionality of the said Government Notice 1117 (of) 1979. Nowhere do they seek such a Government Notice to be declared null and void. We are therefore asking why such matters are being brought in at this stage.... Vide the submissions of the plaintiffs, one comes out with one thing, i.e. that they seek to impress upon your court that Government Notice 117 of 1979 is null and void. Actually what is being challenged is the validity of such Government Notice. The defendant is neither *a maker* nor [emphasis in the original] a custodian of the Government Notice whose validity is now sought to be challenged by the plaintiffs. Government Notice 117 (of) 1979 was made by the Prime Minister, the late ... and signed on 7 November 1979. The same applies to Government Notice 2 no. 211 of 1988, which the plaintiffs maintain was made arbitrarily and in fact *ultra vires* ... save that and the latter case the maker whereof was the Minister for Local Government, Co-operatives and Marketing. BUT, in both cases, i.e. Government Notice 117 (of) 1979 and Government Notice 211 of 1988, the position remains one and the same, that the defendant is NEITHER the MAKER NOR the CUSTODIAN of either of the Government Notices. Just to be brief and precise, the makers thereof are, as already pointed out herein above, while

COMMON CUSTODIAN thereof is the ATTORNEY GENERAL (emphasis from the original).²⁶

Having said that, the counsel for the defence concluded that:

If the above position is true, which we humbly but strongly maintain to be true, how then can the plaintiffs successfully challenge the validity of such Government Notices without joining the custodian thereof, i.e. the Attorney General? The custodian thereof is the only proper person who can come to the defence of such Government Notices. That duty cannot be shifted on to the shoulders of the beneficiary of such Government Notices, in this case the defendant ...

Your honour, our humble view is that since the said GNS remains intact, the defendant's acquisition of the plaintiffs' lands is valid and completely lawful. The acquisition of such lands by defendants remains lawful and valid as long as Government Notices 117 (of) 1979 and 211 (of) 1988 remain lawful and valid. As we have shown in the preceding paragraphs the validity or lawfulness of such Government Notices are incapable of being questioned or challenged without joining the Attorney General, who is the custodian of such Government Notices ... The interests of the defendant as flowing from such Government Notices cannot be said to have been shaken. And it is a well-established and well-known principle of law that the law remains valid and lawful until such time as it is either repealed by the parliament or quashed by the courts. The above Government Notices have not been quashed or declared null and void in the present situation, for, as we have already said, want of the Attorney General being joined as a party. It is in the light of the above submissions that we humbly submit before your honour that the suit by the plaintiffs be dismissed with the colossal order of costs. As it may please your honour.²⁷

On the 13th day of 1994, the resident magistrate fixed the date of the hearing for 4 February 1994. However, neither the plaintiffs nor the defendant appeared on the said date. The hearing was then postponed to 18 March 1994. On that date, the hearing proceeded as scheduled, but the municipal solicitor, who was representing the defendant, petitioned for a hearing a month later. The court ordered

the hearing for 4 days earlier than the date petitioned. On that date, however, both the parties failed to present themselves. Another hearing was set for 14 June 1994. On that day all the parties were present, but the presiding magistrate was on safari. The municipal solicitor holding the brief for Tanzania Legal Corporation petitioned for the case to be heard on 18 August 1994. The court ordered as petitioned.²⁸

In September 1994, a month before the first multi-party local government elections, the chairman of Msaranga crossed from *Chama Cha Mapinduzi* (CCM) to an opposition political party, *Chama Cha Demokrasia na Maendeleo* (CHADEMA). He surrendered his membership card at a public meeting and declared that his decision to quit the party was prompted by the fact that the ruling party, *Chama Cha Mapinduzi*, had let them down on many issues, including the failure to resolve their dispute with Moshi municipality. The chairman also blamed the party for not helping them resolve another dispute which involved plots which had been allocated to Msaranga back in 1983 for community facilities in farm 127. The plots had been reallocated to individual developers for housing.²⁹ Meanwhile, two landowners hired a land surveyor to carry out a survey of their plots in the area. One of the landowners, a retired veterinary doctor, had been promised a loan by an external finance organization which would channel the funds through the Co-operative and Rural Development Bank (CRDB). The landowner needed a certificate of occupancy for his plot, to be used as collateral for the loan.³⁰ The other landowner needed a certificate of occupancy as a form of security for his plot, which he had bought more than 10 years earlier from someone who had been holding the land under customary tenure.³¹

There being no recent plan for the area except the 1980 layout plan, the surveyor was issued with a survey permit on the basis of this plan. The survey was, however, carried out not according to the plan, but following the actual boundaries of the land. This was because in the first place, when the plan had been drawn up in 1980, it disregarded individual plot boundaries, and even where it did regard them, over the past 12 years many land-use changes had occurred contrary to the survey of 1984/1985, as we saw earlier. A problem arose, however, when the surveyor submitted the plan for approval to the director of surveys and mapping. Records in the survey department showed that a survey plan for the area had existed since 1985. This fact delayed approval of the survey and consequently the processing of certificates of occupancy for the landowners, because it was

not until the process of cancelling the survey plan was completed that the surveys for the two landowners were approved.³²

Was the Boundary Expansion Lawful or Unlawful?

On the morning of Friday 11 November 1994 in the District Magistrate's Court at Moshi, Civil Case No. 56 of 1993: Msaranga Village Council and two others, plaintiffs, versus Moshi Municipal Council, defendant, came up for judgement. The court was presided over by a senior resident magistrate who had been the presiding magistrate since the case had been filed in the same court 15 months earlier. Others present included counsel for the plaintiffs and some members of the Residents' Committee. Although the courtroom is only a stone's throw from the municipal council offices, the defendant was absent. The day, which had been long awaited by both parties, came at last.

The presiding magistrate passed judgement in English, which not everybody present could read, but this was the language used by the learned lawyers. The magistrate began the session by reading a two-and-half-page complaint submitted by the plaintiffs jointly and severally, on behalf of the respective inhabitants of their respective villagers, against the defendant, petitioning as already narrated. She then read a one-page response from the defence counsel, the contents of which were as presented earlier.

Judging on the basis of the parties' submissions, the magistrate agreed with counsel for the defence and subsequently upheld the objection submitted that the issue of the validity of Government Notices was not part of the plaintiffs' pleadings, and that even if it had been the plea should have been directed to the Attorney General, thus placing the suit beyond the jurisdiction of the district court:

... The plaintiffs' counsel cannot challenge the validity of Government Notice 117/1979, for the defendant is neither the maker nor the custodian of the said Government Notice which is sought to be challenged by the plaintiffs' counsel. If (counsel) for the plaintiffs wish to challenge the validity of the said Government Notices, he cannot successfully do so without joining the custodian thereof(,) i.e. the Attorney General. The Attorney General is the only person who can come to the defence of such

Government Notices and the duty cannot be shifted on to the shoulders of the beneficiaries

I therefore uphold the defendants' objection in their submission that it is not proper for the plaintiffs to introduce new issues which are not part of the pleadings and the parties must be bound by their pleadings. Also I agree with the defendants' submission that the plaintiffs cannot challenge the validity of Government Notice no. 117/1979, for the defendant is neither the custodian nor the maker of the same but just a beneficiary. If so wishes he can challenge its validity by joining the Attorney General who can come to its defence, and in fact this court has no such jurisdiction. He will have to file the suit in the High Court.³³

This ruling did not, however, alter the facts contained in the submission of counsel for the plaintiffs that his clients had not been heard in the process of drawing up the government notices cited, something which contravened Article 24 of the constitution of the United Republic of Tanzania, as well as the relevant laws and procedures in place. After this favourable ruling on the side of the defence, came the verdict on the use of the instrument in respect of land acquisition and compensation by the defendant. The magistrate identified four main points around which the verdict hinged, and said:

From the above findings and arguments as put forward by the plaintiffs' counsel in his submission[,] the defendant's action in acquiring the plaintiffs' land on the strength of Government Notice number 117/1979 was unlawful because the procedure laid down in section 10(1) of Act no. 8 of 1982, which must be complied with before the acquisition, was not followed.

According to section 10(1) of Act no. 8 [of] 1982[,] the Minister, may where he deems it necessary or expedient for the promotion of efficient and effective local government in urban areas, and *after consultation* [emphasis in the original] with the urban *authorities* concerned [emphasis in the original] by order published in the Gazette, vary the boundaries of the area of any urban authority. The above conditions were not complied with, as there was no consultation with the other local government authorities concerned, and it was [an] arbitrary [decision].

Under section 10A(1) of Act no. 8 of 1982, the Minister may, by order published in the Gazette and subject to this section, cancel

the registration of any village or Ujamaa village established or deemed to have been established within the area of an urban authority. The above had to be complied with and its cancellation published in the official Gazette by the Minister because the plaintiff villages were properly registered villages with properly constituted councils and therefore legal entities.³⁴

The magistrate went on to elaborate on the legal procedures, which the minister is supposed to follow in the process of boundary expansion, and said:

As per section 10A(2) of Act no. 8 of 1982, the powers conferred on the Minister in subsection [I] may be exercised by the Minister where he is directed to do so by the President or where he receives a resolution of the urban authority concerned, supported by the Regional Development Committee petitioning to do so, or if the powers of the Minister to be exercised under section 10(1) of Act no. 8 (of) 1982, there must be a procedure to be followed, something which was not done in the present case.

As per section (3) of Act no. 8 of 1982 section 1[,], there must be notice of one full month to the residents affected to enable them to make any representation on the subject. Such notice of the intention of the Minister to vary the boundaries of an urban authority shall first be appropriately published for notification to the residents of the village concerned allowing them one full month to make any representations to it. The decision of the urban authority and the committee shall then be lodged with the Assistant Registrar of villages, who shall forward it to the Registrar for appropriate consideration and decision by the Minister. This was also not done in our case.³⁵

Finally, the magistrate pronounced judgement as follows:

From the foregoing, since the above-cited amendments were made[,] the plaintiff villages were and are legal constituents. The expansion of the Urban Authority published by Government Notice no. 117 [of] 1979 is preempted and void. The whole exercise was unlawful and the same cannot be effected unless and until the Minister complies with the provisions of section 10A of Act no. 8[,], which I have discussed above. I therefore pronounce judgement for the plaintiff as prayed in the terms stated in the complaint and as per the issues frame [author's emphasis].³⁶

A decree issued by the court subsequent to this judgement stipulated categorically that:

... Government notices 42 of 1983 and 134 of 1983 bar the defendant from extending its jurisdiction over any part of the territory under the jurisdiction of any of the plaintiff councils ... order for permanent injunction against the defendant and or its officials/agents to commit any trespass, annoyance and/or nuisance upon any part of the property within the jurisdiction of any of the plaintiff councils ... the defendant to pay fully and promptly specified damages of a total which shall be assessed by the honourable court ... payment of the costs of the suit ...³⁷

The judgement was received jubilantly by the people of Msaranga, a majority of whom had lost hope in this dispute with the council. A member of the Residents' Committee said he was convinced that the court passed the judgement after consultation with the government and parliament. He said, however, that the adoption of the multi-party political system had influenced the direction which the judgement took.

... They came here, they also went to ... and ... (names mentioned) to congratulate us. Some of them regretted selling some of their land out of fear. I said, we told you not to do so because the laws protected us. God is great. He made them see justice in the end. The laws are very clear, but the court did not want to decide against the government. I believe the magistrate consulted with the cabinet and the parliament The change to a multi-party political system has made the court independent Don't be cheated that the court was independent [before the multi party].³⁸

This view was shared by all members of the Residents' Committee and many other people I interviewed. One of them said, "One day I was discussing [the case] with an experienced lawyer who knew our dispute and the suit in the court. The lawyer told me that the delay in the judgement was a blessing in disguise."³⁹ Following the trend of the judgments since 1993 and of similar cases which involved the people and the government, there seems to be a grain of truth in what people believed. In 1993 the High Court Judge ruled in favour of the people and against the government on a case in which people had

been moved as a result of a government project. The government appealed, but in January 1995 the Court of Appeal upheld the High Court judgement.

In respect of the Msaranga judgement, on 8 December 1994 the Moshi Municipal Council filed an application for a stay of execution of the judgement pending determination of an appeal against the judgement and the decree.⁴⁰ However, 7 months later, on 14 July 1995, the appeal had still not been filed by the applicant. Consequently the court dismissed the application, implying execution of the judgement and the decree.⁴¹ However, by February 1996 the council had initiated a process which would lead to the cancellation of the registration of Msaranga village and all others who were incorporated into the town's jurisdiction in 1978/1979. This implied that the council wished to restart the process of boundary extension, which would then entail seeking the views of the villagers concerned. On the other side, the people of Msaranga were preparing their claims for costs to the Moshi Municipal Council as ordered by the court. They were also seeking readmission into Moshi Rural District Council, of which they were a part before 1978/1979. These processes and their outcomes give the case life, and therefore the possibility of following up the story.

Was the Master Plan Lawful or Unlawful?

Having explored the process of preparation of the Moshi Master Plan, it is evident that not only was the boundary extension unlawful, so was the 1974 master plan, as well as the detailed plan for Msaranga. The master plan was approved by the director of urban planning and later adopted for implementation by Moshi Urban Council, without being deposited for public examination as required by sections 29–31 of the Town and Country Planning Ordinance Cap 378 of the laws. Under the relevant sections, the general public was entitled to an opportunity to examine the scheme for 3 months, within which objections could be registered with the minister responsible for planning, before the plan was approved. A planning officer in the Ministry of Lands, Housing and Urban Development, who had been assigned by the director to check whether or not the plan had been gazetted, reported that:

There is no record that the Moshi Master Plan was gazetted. This plan met objections during rectification (in Moshi) because it

encroached on agricultural areas, which until now has been a source of dispute between the Moshi municipal council and Moshi rural district council. Especially (with) Msaranga, Mandaka, Kiboriloni, etc.... I have checked copies of G.N. (Government Notices) from 1974 to 1977. I will check copies of (G.N. from) 1978 to 1980 ... According to G.N. (Government Notices) from 1974 to 1980 this Master Plan has not been gazetted ...⁴²

Consequently, as the Moshi Master Plan was the framework for land-use planning decisions made by the planners, it is suggested that the whole planning exercise was also unlawful. It was supposed to be reviewed after 5 years, but that did not happen. The first review of the plan started in 1994, undertaken by a team of planners from the Directorate of Urban Development, Ministry of Lands, Housing and Urban Development. The council committed Tsh. 2.5 million, about US \$5,000 by then, to supplement funds allocated by the central government to the Directorate of Urban Development for the review exercise. The exercise was done and the reviewed plan was approved for use. Despite this, however, as explained in the following section, planners' distrust in the non-inclusive master planning approach was growing.

Planners Denounce the Master Planning Approach

Having failed to use the master plan to regulate land-use change in all the areas where land was held under the customary land-tenure system, the planners looked for an alternative planning approach. They had been inspired by the Sustainable Dar es Salaam project, whose objective was to build the capacity for democratic environmental planning and management in the Dar es Salaam City Council. The planners' quest for an alternative planning tool prompted a request by the Moshi Municipal Council to the United Nations Development Programme (UNDP) and the United Nations Human Settlements Programme (UN-Habitat), to include Moshi municipality in the Sustainable Cities Programme (SCP).

In March 1996, a process of setting up an alternative planning approach was begun in a consultation workshop involving politicians, bureaucrats, experts in the central government, Moshi Municipal Council and consultants from Ardhi Institute, currently University

College of Lands and Architectural Studies. By September 1996, the head of the planning department in the council had completed a 3 weeks orientation course in the Sustainable Dar es Salaam Project and was ready to assume responsibility as the co-ordinator of Sustainable Moshi Programme.⁴³

The consultation workshop deliberated on the various problems confronting the town, as identified by the heads of department in the council. Many development problems were discussed but for the purposes of the present study, the following observations by the head of the planning department demonstrate the planners' position about the master planning approach:

(The 1974 Master Plan) was prepared by foreign experts without very much involvement by our local experts Failure to review the plan after every 5 years as expected according to the law ... left the Municipal Council grappling with numerous development and environmental problems.⁴⁴

Resistance from five villages which were incorporated in the town in 1979 and the judgement of civil case number 56/93 provides evidence that the residents concerned were not involved in the [planning process] ... therefore it has been impossible to implement, as intended, development proposals for Longuo, Njoro⁴⁵

It is not true, however, that the Moshi Master Plan was prepared only by foreign experts. The architects of the plan were the Finnish and a Tanzanian planner. As proof of this, their names appear on almost all the drawings in the master plan. Moreover, the Kilimanjaro Zonal Town Planning Officer, who was their host, was a well-trained Tanzanian, while the Director of Urban Planning who approved the plan was also Tanzania. The planner's blame is a typical example of a convenient, but false explanation for problems whose explanation lies with the local planners' incompetence, and insensitive practices or the defective institutional framework and policies within which plans are realized. This does not mean that foreign experts should not be blamed where they legitimately deserve such blame. They should not, however, be used as scapegoats for problems which are of the planners own making, as it is evident in the Moshi case, and was correctly confirmed by the planner in his second observation that the judgement of the Msaranga law suit confirms that the residents were not involved in the planning process: that is, in using the master plan to guide development in the

municipality. Given that no foreign expert was involved in the local planning process, but only local planners which the planner contends was not participatory, who should be blamed other than themselves?

Summary

This chapter has shown that the residents' last attempt to use the political-administrative system did not help. Moreover, it took lawyers 8 years to realize that the suit had been wrongly filed in the High Court and thus had to be transferred to the District Magistrate Court in Moshi. Following the unresolved dispute with the council, the residents of Msaranga and their chairman who had been brought back to power by his people, gradually lost confidence to the ruling party *Chama cha Mapinduzi* (CCM) and joined an opposition party *Chama cha Demokrasia na Maendeleo* (CHADEMA). Loss of confidence in the ruling party implied distrust of the government and thus contributing to eroding its credibility and eventually legitimacy to govern. This was confirmed in the October 1995 general election, in which the ruling party lost the entire municipality to an opposition party, the National Convention for Reconstruction and Reform – NCCR-Mageuzi. This political implication confirms Samuel Kobia's argument that "[f]ailure to let people participate robs government of its legitimacy and credibility".⁴⁶

Moreover, from this chapter we see that at long last, that is after 10 years of struggle, the citizens emerged the winners. The council was found guilty of excluding the residents from the decision-making process. In addition, the organized protests and resistance against insensitive planning had compelled the planners to denounce the technocratic and prescriptive form of planning in favour of an inclusive and democratic planning approach, thus setting in motion a process of subversion of the technocratic and prescriptive planning model. This is evidence of a success for democracy, following struggles waged by the residents in pursuit of a right to a space in the planning process, so that they could lodge their claims in the planning system. The people of Msaranga had persevered for 10 years to make democracy work, thus confirming Kobia's argument that, "systems and institutions alone don't guarantee democracy. It is people who make democracy work".⁴⁷ The fact that planners were forced to denounce the technocratic form of planning in favour of a democratic planning approach confirms

Flyvbjerg's thesis that "conflicts are pillars of democracy and planning". We should, therefore, as he suggests, view conflicts positively.⁴⁸

The judgement in the Msaranga law suit has other far-reaching and positive implications in terms of the empowerment of civil society as well as the restoration of eroded state credibility and hence legitimacy, as correctly argued by McAuslan, "(a) government in accordance with law is likely to be fairer, more respected, more effective in the long run than a government in defiance or in disregard for the law."⁴⁹ Credible government is what is needed by the people. However, because the government is run by human beings and not saints, to counter their actions, more empowered and stronger communities seem to be the only reliable mechanism for ensuring ethical and just governance. Stronger communities are thus needed to resist and reject practices such as those evident in this case of planning practice in Moshi municipality.

The problem of exclusion of the stakeholders that the council was found guilty of runs across the entire Moshi case is right from the master plan preparation to the use of the plan to regulate urban change in the different localities. As was said earlier, the residents of Moshi Town could just as well have sued the council for having adopted the Moshi Master Plan illegally, because they were not given opportunity to examine it and register their objections as provided for in the Town and Country Planning Ordinance. Within the same provisions, the Msaranga residents could just as well have sued the council for illegally adopting the Msaranga layout plan. This is despite the fact that such plans were ratified by the urban planning committee. In all the instances which involved the urban planning committee, the discussion of plans was done superficially either because of the councilors' inability to comprehend the plans in the technical form presented to them by the planners, or simply because of lack of a vested interest in the plan being discussed, or because of the tactics used by the planners to block communication, so that they could pursue their own interests in the planning process. However, as the planners contended, because of the diverse interests of the stakeholders, involvement through representation by the councilors could never be the same as the direct involvement of the residents and other stakeholders in general. In the next chapter we shall see an attempt to make planning more inclusive, hence work as intended.

Initiative to Make Planning Work

This chapter examines an initiative by the Moshi Municipal Council, supported by the central government and external development partners, to put in place an alternative planning and management approach. The approach is being pursued under the flagship of Sustainable Moshi Programme (SMP). The programme promotes consultative and collaborative environmental planning and management following the UN-Habitat's Sustainable Cities Programme (SCP) principles. It is based on the understanding that tackling public problems in a "shared-power world" where no one alone is in-charge calls for collaboration between and among stakeholders: those who are affected by particular problems; those who, directly or indirectly cause the problems, those with expertise, knowledge, and information relevant for addressing the problems and shaping the thinking and practices; the policy-makers and those with responsibility to implement the policies. Looking back over the past 7 years the SMP has been in operation, encouraging changes in the planning practice are beginning to emerge. As opposed to the planning practice analysed in the previous chapters, residents are increasingly availed their rightful social space in the planning and implementation processes, opportunity which is effectively used to negotiate agreements that safeguard their individual as well as collective interests. As this process delivers the necessary agreements, planning is succeeding in shaping the built environment. Given the effectiveness of planning, most likely the planners and the government office they operate from, are regaining the lost credibility and confidence of the residents among other stakeholders, an outcome which may further facilitate planning and management of the municipality's growth and development.

The Sustainable Cities Programme

The Sustainable Cities Programme (SCP) is a joint effort of two United Nations agencies: United Nations Human Settlements Programme (UN-Habitat) and United Nations Environmental Programme (UNEP) to enhance the capacity of local authorities to plan and manage city growth and development in collaboration with other stakeholders in the public, private and popular sectors. In all these activities, emphasis is put on participation of stakeholders and building broad-based consensus across technical, political, social, and economic interests. The overall aim is sustainable city development, for cities play a vital role in social and economic development of a country. However, it is acknowledged that such role may not be realized because of environmental problems that may result from unmanaged urbanization. The SCP entails analysis of development–environment interaction; promotion of inter-sectoral and inter-organizational collaboration; involvement of stakeholders in the public, private, and community sectors; bottom-up and demand-led responses; emphasis on process, problem-solving, and local capacity-building for addressing problems collaboratively.¹

Specifically, the process entails identification, mobilization, and sensitization of stakeholders; preparation of a city/municipal environmental profile which is essentially an analysis of the development activities, natural resources, and hazards and how they impact on each other. The profile shows also the institutional and regulatory setting for city management, actors involved, their roles, and how they relate with each other. The profile is meant to be a database for informed decision-making, planning, and management. In this regard, it is intended to be a dynamic document to be regularly updated as environmental planning and management proceeds collaboratively with stakeholders.² To accomplish this aim, capacity for environmental management information system (EMIS) is built by procuring the necessary equipment, softwares, and training of technical staff.

The next step involves holding a city/municipal consultation to avail stakeholders the opportunity to discuss and prioritize environmental issues of common concern, agree on a mechanism for addressing the issues and commit themselves to participate in the process.

Given the cross-cutting nature of environmental issues, inter-sectoral and inter-organizational issues-specific working group is demonstrated and agreed to be the mechanism for addressing the issues.³

Working groups are established and operationalized immediately after the consultation, comprising men and women from the public, private and popular sectors. The number, focus, and membership of working groups change and evolve as the project proceeds but all the time ensuring representation of all stakeholders.⁴ The main tasks of a working group is to clarify its particular prioritized issue, review and assess alternative strategies, and negotiate agreement on the preferred strategies for addressing the issue, having considered the availability of financial and technical resources. It develops concrete action plans for implementing the agreed strategies. At this stage negotiation and resolution of conflicting views and interests are carried out to reach consensus on the measures to be taken (investments, economic instruments, by-laws, public mobilization, training, etc.).⁵ Action plans will typically involve a number of different initiatives to be undertaken by different stakeholders, although their inter-relationships and co-ordination will have been developed and agreed as part of preparing the action plan. Out of the action plans demonstration projects are designed and implemented to test the agreed strategies before they are replicated city-wide.

Informed by experience from demonstration projects implemented, up-scaled and/or replicated, strategies are fine-tuned and compiled into an overall city-wide strategic framework. This is based on carefully analysed environmental and urban development potentials, conflicts and constraints, to provide an information-base that once developed into a management information system would support detailed urban planning. In this regard, the framework provides options and development “rules and principles” which need to be taken into account when preparing a project and site-specific or area-wide investment decisions.⁶

Conceptually the approach builds on the communicative or collaborative planning theory advocated by planning theorists such as John Forester⁷ and Patsy Healey⁸, among others, who draw inspiration from Habermasian discourse ethics and theory of communicative action. Habermas, cited by Watson, holds that within public arena it is possible for democratic and rational human beings to reach consensus, and co-ordinate action through the process of communication. That the force of the better argument will determine the final validity of a particular decision, provided the process of communication is guided by the following set of criteria or discourse ethics: inclusiveness, empathy, transparency among participants, and neutralization of the existing

power differences between participants. As communication is the most important element in planning practice, the communicative planning theory advocates interaction with stakeholders or interest groups, communicating ideas, forming arguments, and debating differences in understanding and finally reaching consensus on a course of action. Communicative planning recognizes vigorous civil society as a strategic agent of change that can pressurize the government to act more responsibly.⁹

The need for communication and collaboration to resolve issues of concern in society is also justified by John Bryson and Barbara Crosby who remind us that, we live in a world where no one is in-charge. “. . . No one organization or institution is in a position to find and implement solutions to the problems that confront us as a society In order to marshal the legitimacy, power, authority, and knowledge required to tackle any major public issue, organizations must join forces in a ‘shared power’ world.”¹⁰ (pp 3–16). According to Crosby and Barbara, the complexity of policy-making by the multiplicity of actors differs from the traditional hierarchical bureaucracy which fully encompasses a given problem area within its domain and engages in highly rational, expert-based planning and decision-making to resolve it. This bureaucratic approach, they contend, is associated with rational planning, which begins with problem-solving goals from which are deduced policies, programmes, and actions to achieve the goals. It proceeds on the assumption that there is consensus on the goals, policies, programmes, and actions necessary to resolve the problems, as well as consensus on what the problems are, and how they should be defined. They assert that the bureaucratic approach differs substantially from the non-bureaucratic political decision-making approach, which is based on “issue network, or advocacy coalition”.¹¹

In that non-bureaucratic approach, they correctly argue: “there are fluid and somewhat chaotic networks of organizations with overlapping domains and conflicting authorities. The problem of domain extends far beyond each individual organization’s domain . . . No one organization is in-charge, and yet many organizations are affected or have a partial responsibility to act. In such situations, just gaining rough agreement on what the problems are is part of the battle. Therefore, in order to coordinate actions and make progress against the problems, the organizations involved must also engage in political, issue-oriented and therefore messy planning and decision making.” In contrast to the deductive rational bureaucratic approach, Bryson

and Crosby observe that the political–decision-making approach is inductive, for it begins with issues which by definition are embedded with conflicts and not consensus. If efforts to resolve the issues produce policies and programmes, they will be politically rational, that is acceptable to the involved or affected parties, or stakeholders, thus becoming reasonable agreements among the stakeholders.¹²

In support of that view, the UN-Habitat recognizes that “. . . governance takes place in a more polycentric system of actors in which the state is less dominant than before. The multiplicity of actors complicates policy-making since no single actor is legitimate enough to direct societal change. Consensus is no longer given by virtue of legitimacy granted to the state’s actions but must be socially constructed. This requires alliances, coalitions and compromises.”¹³ For that reason, the organization subscribes to the following norms and principles of good governance, among others: participation, decentralization, equity, inclusion, accountability, responsiveness to civil society, . . .¹⁴

However, Bent Flyvbjerg having studied the dynamics of power in decision-making, cautions against the Habermas’s discourse ethics, the foundation of the theory of communicative action. Flyvbjerg sees Habermas’s discourse ethics as a “leap of faith” and utopia because it does not provide guidance on how to change the relations of power that create what Habermas himself recognizes as barriers to discursive decision-making, that is, absence of “crucial institutions”, “crucial socialization”, prevalence of “poverty”, “abuse”, and “degradation”.¹⁵ According to Seyla Benhabib, cited in Flyvbjerg, more barriers to dialogue include: “those social relations, power structures, socio-cultural grids of communication and interpretation at the present which limit the identity of the parties to the dialogue, which set the agenda for what is considered appropriate or inappropriate matter for institutional debate, and which sanctify the speech of some over those of others as being the language of the public.” However, Flyvbjerg argues that the element of power, need to be brought in Habermas’s discourse ethics and theory of communicative action.¹⁶

The Sustainable Moshi Programme

The collaborative environmental planning and management approach was first introduced in Tanzania, specifically in Dar es Salaam in 1992, as a response to a request by the Government of Tanzania for technical

assistance from the United Nations Development Programme (UNDP) to review the 1979 Dar es Salaam Master Plan. In the course of implementation of the approach, under the Sustainable Dar es Salaam Project, Moshi Municipal Council, which was then facing difficulties of managing growth and development as seen in the previous chapters, was attracted by the approach which already by then had enabled Dar es Salaam City to address a thorny issue of solid waste collection in partnership with a private company. Parallel to this informal settlement upgrading was going on in collaboration with Hanna Nassif community and other development partners to include International Labour Organization and UN-Habitat. These early promising collaborative initiatives in addressing issues of common concern were being widely publicized through radio and television, newspapers, workshops, and seminars.

On 28 March 1996, Moshi Municipal Council, using own resources and technically assisted by the then Ardhi Institute, now University College of Lands and Architectural Studies (UCLAS), organized a one-day stakeholders' workshop that drew 72 participants from the public, private, and popular sectors to identify issues of common concern in the municipality. Based on the said experience of the Sustainable Dar es Salaam Project (SDP), the participants at the workshop resolved that their council needed to introduce the collaborative planning and management approach to replace the entrenched prescriptive and techno-bureaucratic planning model which the municipal planner confessed was ineffective for managing urban growth and development in the municipality.¹⁷ The participants also advised the council to contact potential development partners for the necessary support to introduce the approach.

Immediately after the workshop, the council wrote to different potential external donors including United Nations Human Settlements Programme (UN-Habitat), Canadian International Development Agency (CIDA), Danish International Development Agency (DANIDA), Swedish International Development Agency (SIDA), German Development Agency (GTZ), and the British Development Fund for International Development (DFID).

Responding to the request, UN-Habitat fielded a two-man mission, one from UN-Habitat and another from UCLAS,¹⁸ to discuss details of the support sought by the council, as the basis for a project proposal for technical assistance to introduce collaborative environmental

planning and management approach. Resulting from this mission, in November 1997, a letter of agreement was signed between UN-Habitat and the council under which the former would provide the latter with technical assistance for the preparatory and start-up phase to introduce the collaborative approach under what came to be known as the Sustainable Moshi Programme, the SMP.

An outline project document in respect of the SMP was signed by UN-Habitat and Moshi Municipal Council, under which UN-Habitat would support the later for a period of 20 months effective 15 December 1997 by providing funding for several activities in the tune of US \$160,000. This amount was in addition to US \$21,000 initially committed for technical support to prepare the project document and technical support during the preparatory and start-up phase. By the time the programme was introduced, Moshi Municipal Council had learnt a number of lessons from the Sustainable Dar es Salaam Project (SDP)' experience that anchoring of the programme in the existing organizational structure was critical for the success and institutionalization of the new planning and management approach. In this regard, considering that environmental issues cut across the traditional sectoral divides and institutional levels, the programme activities ought to be seen as the concern of everyone and that no one alone was in-charge. Thus it required collaboration and coordination of all actors and stakeholders. The local authority being the statutory body responsible for coordinating actions of other stakeholders, needed to be the lead institution.

Within the council, programme activities would then be best coordinated from the office of the municipal director by a senior staff member on behalf of the municipal chief executive, the municipal director, who has the mandate to co-ordinate activities of sectoral departments and liaise with other stakeholders for collective decision and action. Location of the programme activities in the director's office was also intended to prevent marginalization of programme activities and their misinterpretation as concern of a particular department. Right from the beginning, the SMP is co-ordinated from the office of the municipal director by a senior staff member. This arrangement has since been integrated into the new organization structure for Moshi Municipal Council such that programme activities are appropriately integrated as municipal director's office functions within a newly created planning, statistics, and monitoring unit.

Improving Information to Ensure Informed Decision-Making

Environmental profile provides stakeholders with shared understanding of various issues in their locality, while their involvement in its preparation avails them with an opportunity to learn about the changed way of planning and management. The profile constitutes a database for informed planning and management. As such information contained therein need to be regularly updated, and readily and easily available to all stakeholders. As a way of building local technical capacity and improving expertise, Moshi environmental profile was prepared by council experts in 1998. This was presented in draft form to stakeholders to allow them opportunity to participate in the process of preparation. A summary of the profile was again presented to stakeholders in a municipal consultation held in January 1999. To further improve database, gender profile and ward-level environmental profile have been prepared. For the same reason of building local technical capacity and expertise, preparation of ward profiles was done by a consultant in collaboration with council officials. Participatory methods were used to ensure participation of communities and other stakeholders.

Besides improving information and expertise, the participatory process employed in the preparation of ward environmental profile provided opportunity to better identify key stakeholders, make them aware of the objectives and contents of the programme and what the collaborative environmental planning and management approach entails. The ward profile has created awareness on environmental issues at ward level and facilitated assessment of stakeholders' capacity to support the approach, the gender profile has facilitated gender responsiveness in environmental planning and management. The environmental and gender profiles represent useful database and provide clearer knowledge of environmental issues as well as stakeholders' initiatives to address them.

To further improve information on stakeholders' initiatives to improve environment and alleviate poverty, an inventory of such initiatives in the municipality was prepared. A total of 47 initiatives dealing with environmental improvement and poverty alleviation were recorded. The inventory shows that most of the groups had been formed before the commencement of the SMP, demonstrating what the head of planning department and co-ordinator of the SMP viewed as "civic

characteristics and development-motivated nature of the Moshi community".¹⁹ The inventory of the environmental initiatives was updated in 2002 to enable SMP to determine "early wins" demonstration projects.

To ensure better organization, storage, and retrieval of information, an environmental management information system unit was established in the municipality. Relevant training has been availed to staff manning the unit. Given that the objective of this initiative is to build capacity of the municipal council to collect, analyse, store, retrieve, and make available information on urban environmental conditions and trends, the obvious expectation would be an up-to-date environmental profile which includes spatial and non-spatial data. However, this has not happened despite investments made in improving expertise in GIS, buying hard- and software, and aerial photography in 2003. The available database in the form of Moshi environmental profile remains as compiled in 1999, hence outdated. Worse still there has been no effort to facilitate stakeholders to access the available data.

Prioritization of Environmental Issues, Negotiation of Strategies, Formulation and Implementation of Action Plans

Moshi Municipal Council organized stakeholders' consultation on environmental issues on 21–26 January 1999. Attendance at each of the 4 days sessions averaged 130 participants representing stakeholders in the public, popular, and private sectors including local businessmen, activists, journalists, and local professionals. These representatives contributed actively during group discussions and plenary sessions throughout the 4 days. On the 4th day they adopted a declaration which, *inter alia*, constitute their commitment to collaborate in resolving issues of common concern, initially identified as: unguided urban growth and development; unprotected forests and water sources; deteriorating public health and environmental sanitation; degenerating Central Business District; deteriorating urban economy; and lack of environmental awareness. The participants agreed that initially three working groups would be established to address unguided urban growth and development; unprotected water sources; and deteriorating public health and environmental sanitation.

Stakeholders' consultation at municipal level has been made a routine annual event aimed at providing stakeholders an opportunity to

formally get briefing from the programme management team on the progress made in addressing priority environmental issues, on the basis of which, re-prioritize environmental issues as deemed necessary. The project management team is equally benefiting from this practice. It uses the forum to discuss with stakeholders constraints and challenges encountered, with a view to agreeing on how to tackle them. Annual consultation has provided opportunity to reorganize and/or reconstitute composition of working groups commensurate with the prevailing circumstances (see the Box below); a mechanism for auditing progress made in environmental planning and management; opportunity to sensitize stakeholders and sharing of information; as well as a way of the programme management team to be accountable to stakeholders.

Reconstitution of working groups in 2000, 2001 and 2002

During the 2000 Stakeholder Workshop, the participants critically revisited the Moshi Declaration. They observed that issues like improvement of urban management, regenerating the urban economy, and promotion of tourism did not feature as typical environmental issues. It was also agreed that environmental awareness raising was cutting across all issues and that improvement of public health and environmental sanitation was too complex to be dealt with by one Working Group. Therefore, the Working Groups were reconstituted to deal with the following issues:

- (i) Controlling AIDS and HIV Infection
- (ii) Environmental Management of the Informal Sector
- (iii) Improving Liquid Waste Management
- (iv) Improving Solid Waste Management
- (v) Managing Un-serviced Settlements and Urban Expansion
- (vi) Protection and Management of Water Sources and Forests

During the 2001 SMP Stakeholders Annual Consultation, the participants resolved that more emphasis should be put on improvement of public open spaces than protection of forests. Also it was resolved to address the problem of accessibility in the peripheral wards.

The working group on “Protection and Management of Water Sources and Forests” was thus reconstituted to deal with public open spaces and beautification, while a new working group was established to address the issue of accessibility in the peripheral wards. The Working Groups were thus as follows:

- (i) Controlling AIDS and HIV Infection
- (ii) Environmental Management of the Informal Sector
- (iii) Improvement of Public Open Spaces and Beautification
- (iv) Improving Liquid Waste Management
- (v) Improving Solid Waste Management
- (vi) Improving Urban Transportation and Storm Water Drainage
- (vii) Management of Unplanned Settlements
- (viii) Protection and Management of Water Sources

During the 2002 SMP Stakeholders Annual Consultation, the participants were introduced to the ILO idea of “Better Services and More Jobs” as an approach of promoting community-managed labour-based urban infrastructure upgrading and service delivery through micro-enterprises especially in low-income settlements. Participants were informed that the approach would undoubtedly improve service delivery and create employment to tackle urban poverty and environmental degradation. They were also informed that beautification was not a priority on DANIDA policy. Following presentations including that by the ILO representative on solid waste recycling and another by a representative of the Cleaner Production Centre of Tanzania, the Working Groups were again reconstituted as follows:

- (i) Controlling AIDS and HIV Infection
- (ii) Improving Liquid Waste Management
- (iii) Improving Solid Waste Management
- (iv) Improving Urban Transportation and Storm Water Drainage
- (v) Management of Unplanned Settlements
- (vi) Management of Water Sources, Open Spaces and Alternative Energy Sources
- (vii) Promoting Decent Work through Environmental Management of Informal Sector and Cleaner Production Technology

Negotiation of strategies and formulation of action plans has been the main task of the working groups. Composition of these groups was initially gender unbalanced and dominated by male representatives from the public sector, in particular council officials. These deficiencies have been gradually rectified, by incorporating more women, representatives of the private sector, as well as those of the popular sectors. However, representation of the private sector remains inadequate as shown in the Tables below.

Working group composition by sector and gender, SMP

	Working group	Total members	Public sector		Private sector		NGO/CBO		Total	
			M	F	M	F	M	F	M	F
1	Managing unplanned settlements	12	7	4	–	–	1	–	8	4
2	Improving urban transportation and storm water drainage	12	7	3	–	–	–	2	7	5
3	Improving liquid waste management	12	4	3	–	1	4	–	8	4
4	Improving solid waste management	11	2	2	1	–	2	4	5	6
5	Protection and management of water sources	11	2	2	1	–	3	3	6	5
6	Promoting decent work through management of the informal sector	12	4	1	2	–	3	2	9	3
7	Controlling AIDS and HIV infection	11	7	3	–	–		1	7	4
	Total	81	33	18	4	1	13	12	50	31

Constructed from a Draft Review Report for the Sustainable Moshi Programme, April 2003 and a report by the Programme Coordinator, (2003)

Working groups established in August 1999 were reconstituted in 2000, they were reconstituted again in 2001, as more detailed and specific information on environmental issues and stakeholders was available in the ward-level profiles. Working groups were reconstituted for the last time in 2002.

The process of clarifying issues, negotiating strategies, and formulating action plans and projects has been challenging, surrounded by numerous logistical problems to include inadequate financial resources to facilitate meetings of working groups at least twice a month to efficiently discharge their responsibility as mandated by stakeholders. A donor supporting the programme has conveniently avoided this challenge on the excuse that it need to be the responsibility of the local government because should they get involved in facilitating working groups, such support may not be sustained when the donor support ceases. The local authority has strived to address this challenge. However, considering financial constraints facing the local authority, this has not been an easy undertaking. So far there is no stakeholder who has offered to share this responsibility with the local authority, though all stakeholders are bound to benefit from the solutions arrived at by the working groups. Notwithstanding the challenge of facilitating the working groups, the process of negotiating strategies and formulation of action plans has proceeded so that a number of demonstration projects have been designed and are being implemented as presented in the next section.

As indicated above, one of the issues prioritized in the municipal consultation was management of unplanned settlements, around which a working group was established. Members of this working group further analysed the issue, negotiated short-term and long-term strategies for addressing the issue. Learning from the difficulties of managing land-use change in the urban fringe without involving the residents, the strategies negotiated and agreed by the working group include sensitization of holders of land rights in the informal settlements to allow regularization and upgrading as this would be done collaboratively with them and respecting their land rights. Having formulated this strategy into an action plan, a demonstration project for regularization and upgrading of roads and storm water drainage system is being implemented in three settlements, each of which constitutes an administrative sub-ward namely: Miembeni, Dhobi, and Kwa Komba. As presented in Chapter Eight, it is in these same areas where the planners failed to regulate and manage land-use change in 1989 because of their insensitivity to the residents' land

rights and a non-collaborative or exclusion of residents in the planning process.

Unlike the failed 1989 planning intervention, this time around regularization and upgrading plans for the settlements have been prepared with the residents. The process has entailed establishing a community planning team comprising five residents – men and women who are elected by fellow residents; councilor for the area; ward executive officer; sub-ward leader; representatives of non-governmental organization operating in the area; community development officer; town planner; municipal engineer; and public health officer. The process has additionally involved holding public meetings to prioritize roads for improvement and at what standard; where to build storm water drains; and how to get the space needed for the improvements. What is most interesting is that, where space was needed, property owners have cooperated and contributed spaces for expansion of roads and construction of storm water drains without demanding compensation.²⁰ Having got the approval of the Urban Planning Committee and the Ministry of Lands, Housing and Settlements Development, the surveying of roads and storm water drains was completed in August 2006. Construction of these infrastructure is currently in progress, supposed to go hand in hand with surveying of individual plots, the cost of which each property owner has agreed to contribute Tsh. 30,000 (Tsh. 1,235 = US \$1).

Summary

This chapter has shown the way planning is being made to work through consultative and consensus building in decision-making; increased social space for all groups of stakeholders in the planning process; and respect for residents' rights. All these demonstrate a change in the planning practice. With this outcome, trust in the planning authority and government in general is being restored. The planning authority's interest is increasingly understood as that of managing change to improve the living environment rather than to deprive residents of their land rights. This is an important change in the planning practice which has made planning to work. This will in turn eventually restore the credibility of the central and local government and subsequently enhance their legitimacy to govern.

Moreover, all those involved in the process are gradually gaining experience to work with each other, capacity that is absolutely needed

in the changed political and economic context for planning. Planners particularly needed this capacity and confidence to plan with the people. They needed to demonstrate to the residents that they can be trusted as public servants and custodians of public interest. Hopefully, residents in other informal settlements in the municipality are taking note of the change in the way planners among other urban managers have worked with the residents, reaching agreements to reshape their settlements to ensure improved living environment. This turning point in the planning practice represents an important milestone towards collaborative planning and management, and most likely the beginning of an end to the entrenched technocratic and prescriptive model of planning.

In this chapter we begin to see changes in the practice of planning so that gradually these will add up to widespread changes in the way of thinking, paralleling what Thomas Kuhn refers to as a paradigm shift (Kuhn 1962). The most encouraging aspect about this is that, the changed planning approach has the potential to rescue professional planners, from being marginalized at the expense of the environment and people. If the technocratic, bureaucratic, and prescriptive model of planning were to continue, evidence in this book shows that outcomes would be far-reaching disputes which hitherto have pervaded urban development management, *inter alia*, because of exclusion of stakeholders in the planning process. Under the circumstances, neither the government at central and local levels nor the stakeholders would benefit because their efforts would be wasted in resolving disputes, rather than using such efforts to contribute to improving the living conditions of the people.

Exclusion, insensitivity to land rights and land value as the sources of ineffectiveness of planning

It's true that certain people, such as those who work in the institutional setting of the [planning system] . . . are not likely to find advice or instructions in my book to tell them 'what is to be done.' But my project is precisely to bring it about that they no longer know what to do, so that the acts, gestures, discourses that up until then had seemed to go without saying become problematic, difficult and dangerous.¹

Foucault

In this book, we set out to explore how the planning system was put to work in the management of land-use change in Moshi Town, with the intention to understand what underpins the conflicts which pervaded the process of urban change and the ineffectiveness of planning in Tanzania. The reader was deliberately taken through a long journey, which hopefully has been worth the detours made and alleys passed down, the intention being to *show*, rather than to *tell* what happened. The aim in using narratology and in going into what others might see as trivial details or a one-to-one representation of reality has been to enable the reader, who has been able to follow the case story from the beginning to the end, to obtain answers to the questions raised as the story unfolded. In addition, it has been the intention to enable the reader to come to her or his own interpretation of what the case study has shown. The task of exploring the way the planning system was put to work has come to resemble opening a “black box” which was contained in a fateful aircraft planning. Hopefully by using narratology, the reader has been enabled to participate in opening the box and reading the “recorders” in the black

box and thus to make independent interpretation of the facts. This chapter summarizes the author's interpretation of what has emerged from the Moshi case and the implications of this to the planning practice in the specific and similar context of this study.

Following the interest in understanding what underpinned the ineffectiveness of planning, my interpretation of what underlined the conflicts, disputes, and confrontations between the council and the residents, and what these implied, the Moshi case is offered as a case of land-use planning and residents' rights. Readers can also see it to be a case of something else. As Jeniffer Platt argues, what cases should be taken to be examples of, once the narrative is complete, "depends on the focus of interests and the theoretical framework as much as on the nature of the case in itself." She illustrates this argument with three cases which could be viewed in different ways than they are seen by the authors. One such case is "The Jack-Roller" studied by Clifford Shaw, which the author offers as a case of a delinquent while she sees potential in it in that it could have been offered as a case of a Polish immigrant to Chicago. This potential, she argues, exists in every empirical study, but authors vary in the extent to which they theorize it themselves. Given the possibility for others to be able to interpret cases depending on their theoretical stand point, Platt suggests that it may not be necessary for those producing cases to generalize them, because others can equally well do this for them or for their own purposes.²

The Moshi case is not a case of a master plan produced and kept on a shelf to collect dust or to impress upon the public that the government is busy doing something while doing nothing to address the questions of equity and efficient land use. It is a case of rigorous attempts by planners to use the plan to manage spatial change, but with mixed outcomes explained by how the land-use policy tool was interpreted and used by the actors in the planning system. Like any other tool available to human beings which might be used for productive or destructive purposes, the plan was respected or changed depending on whose interests were being served. Where plans stood in the way of the interests of influential people, including those entrusted with state powers of planning and land management, was changed in pursuit of such interests. However, in some cases where plans were against the interests of the residents, they were maintained and attempts were made to displace such interests. This, as seen in Chapters 4 to 7, led to conflicts and confrontation between

the planning agency and the residents whose interests were at stake, so that the land-development process was pervaded by power struggles, endless disputes, and insecurity of land tenure. These disputes and conflicts revealed not only how land-use change occurred, but also whose interests and views dominated, and thus the nature of planning practice in relation to the question of democracy in the planning system.

Applying conformance criteria, the Moshi case has shown that with the exception of the failure to displace the airport, attempts to use the master plan to regulate land-use change succeeded where land-use rights were held by the government, and grossly failed where land was held under the customary land tenure. Besides failing, such attempts caused insecurity of land-tenure rights and hence insecurity of investments in land, which drowned the council in far-reaching disputes with the residents. These disputes not only strained the relationship between the council and the residents in the areas concerned, but they also eroded state credibility and social trust between the residents and the council. Subsequently, whereas the residents in the areas concerned viewed the “land officers” – the planners, surveyors, and land officers – as land-grabbers and intruders into their lives, the planners viewed the landowners as obstacles to planning. This antagonistic relationship impeded planning. Distrust of planners grew as their insensitive plans and form of planning interventions, which persistently excluded the residents, remained unchanged.

The spatial outcome of those abortive attempts was that two distinct territories emerged. Where land was originally held by the government, development proceeded as planned. In this territory, land was held under the right of occupancy granted by the government. Land-use change occurred by consent of the council and thus largely following the building code. Where land was held under customary land tenure, development proceeded without the authorization of the council, but in pursuit of landowners’ and developers’ interests. Whereas at the start of preparation of the master plan in 1973, Moshi Town had only 17 per cent of its total population living in the unregulated settlements, by 1996 that proportion had reached 53 per cent, and in 2006 it is estimated to be over 60 per cent. However, because of widespread insecurity of land-tenure rights caused by planning, landowners were increasingly seeking the transformation of their land rights into rights of occupancy granted by the government.

Planning as a platform for power struggles over the disregarded land value

Planners' insensitivity to land rights and to the economic and cultural meanings of land to the holders of land rights, the exclusion of other stakeholders in the planning process in disregard of the law and a model of planning based exclusively on "scientific knowledge" and "technical rationality" are the main factors which underlie the conflicts, protests, and the failure of planning to manage spatial change as intended. The exclusion of the residents from the planning process and a disregard of the law were the main strategies used by those entrusted with powers of planning and land management to ensure the domination of their ideas and values, and to camouflage their interests being pursued in the planning system at the expense of the views, values, and interests of the residents.

Subsequently, planning was manifested as a platform for power struggles over land value between the holders of land rights and the actors in the planning system. This is elaborated below in the interpretation of the Moshi case, showing that its main events, that is, the case "kernels" which constitute the different chapters, are a series of scenes or major strategies in that struggle. In each scene, the actors formed alliances and adopted various strategies to win over each other. These strategies were changed as time passed, until in the end, the planners and land administrators were squeezed into a corner which compelled them to grab land committed for public use to cater for their personal interest, as well as other influential individuals, thus confirming their real interests in the struggle. Moreover, because of this real, there had been persistent struggles between central and local government over who should allocate land. The powers of land allocation thus oscillated over time between central and local government.

Protests and resistance, such as those which pervaded the Moshi case, give an opportunity to view power relations and to see how power is not concentrated and emanating from one point as traditionally conceptualized, but is dynamic and exists everywhere. It is exercised by those involved in a power relation, using different and changing strategies aimed at winning against each other. This is much in line with Foucault's conceptualization of power and strategy as summarized by Flyvbjerg:

Power is the process which via unceasing struggles and confrontations transforms, supports or reverses these force relations.

Power is the support which the force relations find in each other via the creation of chains of systems, or conversely, via the separation and opposition which isolate them from each other

(Strategy) ... considerations as to what means are necessary to achieve a given objective ... the way one party behaves in a given interaction toward what it perceives will be the actions of its opponent, as well as the party's own beliefs concerning the opponents' assumptions about the party's actions ... how one party tries to obtain advantages over another ... procedures used in confrontations to rob the opponent of his means of struggle and to force the opponent to renounce the struggle ... means used to exercise power effectively or to maintain it.³

The case story shows that planning became a platform for power struggles over land value between organized communities of residents and those entrusted with powers of planning and land management. Whereas the residents' real interests was clear at the outset, that is, to protect their land rights and the use and exchange value of the land, that of the experts and officials remained camouflaged under planning, eventually revealing itself to be the expropriation of land. The two trajectory responses of the parties involved confirm this interpretation. The land-rights holders' strategy to seek registration of their land to block possible expropriation by the council emerges as one trajectory response, revealing what has throughout appeared to be their real interest in the struggle. The quest to change the use of land committed for public use in pursuit of private individual interests emerges as a second trajectory response, revealing the real interest of the actors in the planning system. As observed by Flyvbjerg, "no power is exercised without a purpose".⁴ He cautions, however, that "this does not mean that power is a result of choice or decisions made by an individual subject". To support this argument he quotes Foucault, who asserts that:

The rationality of power is characterized by tactics that are often quite explicit at the restricted level where they are inscribed (the local cynicism of power), tactics which, becoming connected to one another, attracting and propagating one another ... end by forming comprehensive systems: the logic is perfectly clear, the aims decipherable, and yet it is often the case that no one is there to have invented them.⁵

As pointed out earlier, the main events or case “kernels” of the Moshi case, demonstrate how planning become a platform for power struggles over land. The first event was the preparation and adoption of the master plan. Residents whose land rights and interests would be affected by implementation of the plan were excluded from the process. Considering that the plan entailed urban encroachment on customarily held land and the displacement of agricultural interests in the area, the plan preparers should have expected objections from the residents as well as from those whose agricultural interests were at stake. To ensure that their planning ideas, values, and interests dominated and sailed through the system, planners used a strategy of excluding residents and other stakeholders from the planning processes, in disregard of Sections 29–34 of the Town and Country Planning Act, Cap. 378. This disregard of the law notwithstanding, the plan was approved by the directorate of urban development.

Moving to the second major event, acquiring planning powers over the extended planning area, where objections were also expected, the council used a similar strategy of excluding the residents affected. Facing the reality of the consequences of their exclusion strategy, the officials and politicians used a second strategy of persuasion, deceiving the residents that their area would be left as a green belt, when they knew very well that the master plan contained no such policy. On the contrary, the master plan had designated all the areas affected, except Longuo B, primarily for residential development. Landowners in Longuo B had a bigger problem because their land had been designated for institutional use, implying that they would be displaced. We have seen that before discovering what exactly was ahead of them, that is, displacement, the residents protested and petitioned against the decision. These were the strategies used by the residents in exercising their power. However, upon discovering that their area was designated for institutional use and hence displacement, they adopted a more reassuring strategy when, in 1979, they filed a law suit against the council for trespass. Although the ruling of the Longuo suit did not restrain the council’s general administration in the area, planners refrained from intervention in Longuo B until they were invited to do so by the residents.

The commencement of planning intervention in Msaranga in 1980, 10 years ahead of schedule, suggests a connection with the failure to move the airport and thus acquire land for residential plots. This interpretation is confirmed by the planner’s letter to the director

of urban development, as seen in the relevant chapter. The objective in taking up Msaranga at that time was thus to compensate for the lost chance to create plots in the airport area. The Msaranga sub-case reveals the different strategies used by planners, officials, politicians, and landowners. Confronted with protests from the residents for having excluded them from the planning process, the planners, officials, and politicians used persuasion as a strategy to impose the Msaranga plan. However, failing to show how the planning intervention would improve the living conditions of the residents to counter the residents' argument against the plan, the political-administrative system resorted to different suppressive strategies, such as orders "whether you like it or not", police, arrests, punishments, and impeachment of the local leaders. Likewise, landowners applied various strategies including arguments "how will we survive in a town environment", organized protests and resistance, the uprooting of survey beacons, appealing to various government and party authorities, including the highest political and executive offices, and finally turning to the judiciary to let justice take its course.

Despite the fact that the law suit against the council took 10 years, we have seen that the residents finally emerged the winners. In the meantime, however, we saw holders of land rights becoming insecure of their land rights and hence of their investments in the land. Subsequently, some of them sold part of their land and were eventually unable to maintain their lives through agriculture. On the other hand, the government lost credibility and legitimacy, as confirmed by the exodus of residents from the ruling party and eventually the defeat suffered by the party in the 1995 general election. This political implication directly confirms Samuel Kobia's argument that "[f]ailure to let people participate robs government of its legitimacy and credibility".⁶ It also confirms Flyvbjerg's thesis that "[g]overnments which suppress conflict do so at their own peril". He argues further, using a Foucauldian interpretation, that "suppressing conflict is suppressing freedom, because the privilege to engage in conflict is part of freedom".

After the failed attempt to manage land-use change in Msaranga and later in Mji Mpya, the struggle between the council and the residents manifested itself in the form of two trajectory responses: a strategy by the Longuo B residents to safeguard their land rights against insensitive planning and a quest by the influential to grab land designated for public use. This was a no-option response by those entrusted

with responsibilities of planning and land management, after the residents had persistently resisted attempts to expropriate their land. Rationalization was the main strategy used by those operating the planning system in expropriating land committed to public use. This strategy was used both to secure approval of the change of use and in the allocation of plots.

Other strategies included changing facts to suit the intended purpose, lobbying and forming alliances. Planners were used as instruments of power to present such rationalizations as technical rationality, while the councilors in the urban planning committee in particular were used to rubber stamp rationalizations at the expense of their electorates. The planning system was misused as a vehicle for the rationalization of the change of use in defiance of the purposes it was set up for. The evidence of the Moshi case parallels the critique by a German and French deconstructionists of the Mannheimian notion of planning as reported by Healey that "rationalizing power dominated the very institutions setup in the democratic action, the bureaucratic agencies of the state".⁷ It also confirms Flyvbjerg's thesis that "rationalization presented as rationality is a principal strategy in the exercise of power The freedom to interpret and use power is a crucial element in enabling power to define reality".⁸

Recognizing the environmental problems which might result from their disjointed decisions, as well as to provide for collective interests, the Longuo B residents' strategy was to have their area planned without compromising their land rights. The invitation to the planners to collaborate in planning was thus a sub-strategy within that strategy to ensure that planners did not insensitively tread on their land rights. This collaborative planning was not quite appealing to the planners, apparently because they realized that in such a participatory planning process there would be no possibility to pursue their self-interest, that is, getting plots.

To confirm this interpretation, when later the planners prepared a plan for the settlement, they showed no particular interest in following up approval of the plan, as was normally done when a layout plan which entailed planners' interest was sent to Dar es Salaam for approval. Where plots were involved, planners made all the efforts, including alliances with planners in the ministry, to ensure that the layout plan was approved as soon as possible. It took planners about 1½ years to prepare a plan for Longuo and almost another year to get it approved by the director of urban development, simply

because there was no follow-up. In contrast, the plan which entailed expropriation of the land for the psychiatric patients' facility was closely followed up, not merely by the planners but also by the chairman and secretary of the regional land allocation committee. Likewise, approval of the plan for change of use of the textile company (TEXCO) plot entailed a strong delegation from the council going to the directorate of urban development to convince the director to approve the proposal to allocate the private capitalist 25 hectares of land which he needed for a greenhouse.

The power struggle over land had not been only between those holding state powers and residents, holders of land rights in particular, but also amongst different groups of the former, that is, between the politicians, bureaucrats, and experts in the central and local government over who should allocate the land. Following that struggle, the power of land allocation had over time oscillated between the central and local government, each time leaving one deprived of that power fighting hard to get it back. During the decentralization period in 1973, when the councils were abolished, powers of land allocation were taken by the central government department of land. Upon re-establishment of the urban councils, the relevant central government department fought tooth and nail to retain that power, but finally and reluctantly the council got back the powers. This did not last long, because only 5 years later the councils were deprived of these powers of land allocation by the central government, on the excuse that such powers were being abused and misused.

Blaise Pascal cautions that: "Man is neither angel nor beast; and the misfortune is that he who would act angel acts the beast".⁹ This dictum is very much confirmed by the way the central government, through the regional land allocation committee, misused its powers to initiate the several instances of change of use of land committed for public use, and the way the committee members allocated the psychiatric unit's land, worth at that time Tsh. 5–6 million per plot, to itself and other influential individuals. Yet it is this very kind of behaviour which made the central government withdraw powers of land allocation from local authorities. This behaviour confirms a body of knowledge about the dilemmas of third-party impartiality by those entrusted with the responsibility of running the state.¹⁰

In this regard, it is suggested that the officially disregarded land value was the object of power struggle between the residents and planning agencies, and between the central and local government.

The planning system was used as a vehicle for expropriating that value to meet the self-interests of the actors in the planning system and other elites. This group used exclusion and rationalization as strategies to camouflage their self-interests, which they pursued in the planning system at the expense of society at large. Organized residents' protests and resistance against planning interventions were the strategies employed by holders of land rights to articulate their interests and values in the planning system. The use of the planning system by its operators to serve their own interests agrees with the findings of a study on the evolution of Dar es Salaam land-use structure by Kironde.¹¹ Besides falsifying his hypothesis that the Dar es Salaam City land-use structure was the result of spontaneous action, rather it was a result of various government policies, the author establishes that the implementation of these policies served the interests of the elites. Although he does not specify the particular tool of land policy, he suggests that "land policy was a tool used by various sections of the bureaucracy to advance their interests, for example, in the form of hoarding or clamouring for powers of land allocation, in the form of new planning schemes and in the form of grabbing land wherever possible". Moreover, the author contends that no action was taken to review the deficiencies inherent in the policies.

Unlike the Moshi case experience, where communities resisted possible displacement from their agricultural land and being deprived of the exchange value of the land among other values, Kironde tells us that in pursuing the interests of the more powerful minority in Dar es Salaam, the less powerful were displaced and compensated inadequately because their compensation was under-assessed, though it is normally based on unexhausted improvements. These are exactly the evils of the land policy which residents avoided because of their political consciousness, which prompted the struggle to protect their land rights and interests in land.

Kironde informs us that gradually the elites were penetrating the unplanned areas, replacing or mixing with less powerful groups. The presence of elites, he argues, had made the government refrain from the displacement approach, an action which he claims encouraged further informality as well as urban sprawl. However, it is interesting to note how the change in government attitude to respect the unplanned settlements shifted with the degree of penetration of the elites. This concurs with what has been shown in the case story, namely that plans, procedures, and other institutional structures are sometimes

interpreted in the interests of the influential. In other words, where policies and laws favoured the influential, they were followed, whereas where they did not they were ignored.

Defective land policy and legislation as the context of insensitive planning

Consistently and repeatedly, right from the master plan preparation stage through the attempts to expand the planning area and to use the plan as the framework for regulating land-use change by using layout plans, the Moshi case has shown planners' insensitivity to land rights, as well as disregard of the use and exchange value of land. There are three basic problems connected to this issue of insensitivity to land rights and value. First, there was a difference between government's and land rights holders', in particular, perceptions of landownership and value. The holders of customary land rights in particular regarded land as private property with an exchange value, but until the Land Act No. 5 of 1999 was adopted in 2001, in most official transactions land was regarded to have zero exchange value.¹² As planning and land administration was inevitably premised on this official position, disputes occurred endlessly when plans were brought to bear in real-life situations.

As a consequence, where customary land tenure applies, plans were rendered ineffective, but they generally were effective where land-use rights were held by the government or where communities were unorganized and weak; where local communities were strong enough to resist the alienation of their land conflicts resulted, as demonstrated by the Moshi case and other cases in Dar es Salaam.¹³ Despite the fact that the planning agency failed to intervene and eventually retreated, the dust of insecurity of land-tenure rights as well as investments in land remained behind, not only in the area concerned, but also in other similar areas. Preliminary studies in other towns prior to the present one revealed also that in towns such as Singida, where local communities were submissive, planning interventions which entailed expunging plot boundaries and compelling property owners to rebuild according to the plan were carried through, but, with repercussions for the people.¹⁴

The official notion that land had zero exchange value implied that where land was acquired by the government for public use, which in practice included land required for urban development, holders of

land rights were compensated only for development on the land and not for the land itself. This was in accordance with the repealed Land Ordinance Cap. 113,¹⁵ but contrary to the Town and Country Planning Ordinance Cap. 378, provides for compensation of the value of land as well. Section 53(ii) stipulates that: "Where the use of a building or land is prohibited because such use does not conform with the scheme applicable thereto, such non-conforming use shall, in the case of land be deemed to have life of 25 years from the material date and, in the case of building, shall be deemed to have a life assessed according to the nature and condition of its structure ...".¹⁶ If the objective of government intervention in land development through land-use planning was to ensure justice and fairness, this section could be applied in instances of urban expansion where land was primarily being used for agriculture as the main means of survival for the holders of land rights. This is what could represent a full and fair compensation to enable the holders of land rights to look for alternative means of survival, including buying alternative land if they wished to continue farming. This is all what the communities of holders of land rights were arguing that the government should do, because otherwise planning would deprive them of land value and of their means of surviving. As we saw in the case story, this was the major reason why the holders of land rights were so adamant about urban encroachment on their land, despite the fact that the urbanization process involved an increase in the exchange value of their land. On the other hand, because in reality land has exchange value, such value was captured by the few who had access to the plots which were allocated free of charge by the government, and it also benefited those who were entrusted with the responsibility of allocating this strategic resource. Such free of charge land made those allocated it even more powerful economically and politically. However, the government was deprived of a potential source of revenue at the expense of the rest of the society.

Secondly, the insensitivity to land rights was rooted in a notion pervasive in the planning practice that once an area has been declared a planning area, customary land rights would be automatically extinguished. This notion had no legal ground in the Town and Country Planning Ordinance of 1956. Rather, it is an administrative practice rooted in the ambivalence of the Land Ordinance Cap. 113 as regards customary land-tenure rights which allowed those operating the planning and land-management system to interpret the law as it suited

their ideas and interests. This argument is very much supported by evidence of the Presidential Commission of Inquiry into Land Matters, which traced this practice to an administrative circular issued by the British colonial government in 1953. This, the Commission reported, allowed “flexible interpretations”¹⁷ of the status of customary land tenure. The Commission argued that due to that circular and the ambivalent position of customary land tenure, the British colonial state “had full powers to deal with land according to whatever policy was adopted from time to time”, with the result that large amounts of land held under customary tenure were alienated to foreign settlers. Furthermore, it is observed that the post-independence government, which inherited the Land Ordinance Cap. 113 as it was, had done no better with respect to customary tenure rights. It is noted in the Commission’s report that “if law has intervened, it has done so to extinguish (rather than reinforce) customary law titles ...”.¹⁸ This fact underlie the power relation between the government and the residents, giving planners and other land administrators the power to interpret the law as they wished, which in most cases meant in pursuit of their own interests.

Records show that even the courts interpreted the status of customary land tenure differently. In one of the most quoted disputes involving the overlapping of customary land tenure and granting of occupancy rights, in 1966 the trial judge held that once an area is declared a planning area, customary law ceases to apply to the land in that area and rights of occupancy by virtue of native law and customs are extinguished, thus making the holder a “squatter”. This position was overruled by the court of appeal; the judge stating that: “In my view the law in Tanzania on land and land tenure is still developing and certain areas is unclear and will have to wait the necessary legislation. At any rate I am not prepared, on the rather inconclusive and tenuous arguments advanced in this appeal, to hold that the right of a holder of a right of occupancy by virtue of native law and custom is extinguished and (that the holder) hereby becomes a ‘squatter’ on an area being declared a planning area.”¹⁹ There are, however, explicit procedures in the planning law for land acquisition if customary land tenure should be displaced to facilitate a scheme’s implementation. Section 45 of the Town and Country Planning Ordinance Cap. 378 and the Land Acquisition Act of 1967 empower the President to acquire land for public purposes, or if the holder of a land right is unable to develop such land according to a prevailing scheme.²⁰

The disputes, injustices, and struggles which pervaded land development in the Moshi case are a consequence of a deliberate disregarding of realities. Niccolo Machiavelli warns that “a man who neglects what is actually done for what should be done learns the way to self-destruction”.²¹ By disregarding the reality of the exchange value of land and what is actually done – selling and buying of land – the government undermined the efficacy of its own land-policy tool. Instead of being a tool for resolving conflicting interests, land-use planning caused far-reaching disputes, and the planning system itself was increasingly used as a vehicle for expropriating land committed for public use at the expense of society at large. The endemic corruption in the land administration and planning is another undesirable outcome which was contributed to the disregard of the exchange value of land. In Moshi, those entrusted with powers of planning and land administration acted unethically, to share among themselves what they were custodians of. Their actions confirm what we are told by Douglas North on the dilemmas of third-party impartial enforcement: “if the state has coercive force, then those who run the state will use that force in their own interest at the expense of the rest of the society”.²² Corrupt practice in the land sector is now commonly known, as also contended by the third President of the United Republic of Tanzania on 8 March 1996, in his address to the University College of Lands and Architectural Studies. On this occasion President Benjamin William Mkapa remarked: “While I call for academic excellence in class, I also urge the lecturers to impart to these future professionals a respect for ethics in their lines of profession. It is common knowledge that among the sectors notoriously known for corrupt practices are those related to the housing delivery system, including planning for settlements; surveying; land valuation; land allocation and registration; and the housing credit system as exemplified by the collapsed Tanzania Housing Bank”.²³

Just as the disregarding of individual land rights and other private interests in land was a problem, so was the provision for collective interests, insofar as the current trend of each individual caring for him- or herself continued. However, the type of planning approach that is likely to be accepted by the strong and informed communities observed in the case story needs to include the stakeholders and not exclude them, as the planners did in the case of the Longuo plan. Planners need to recognize the existing diverse interests while at the same time facilitating negotiations to cater for collective interests such

as roads, schools, etc. As the Longuo sub-case has shown, planners still have a chance to influence land-use change if they move from their "ivory towers" to where development is taking place. By working collaboratively with the residents, planners can facilitate negotiations of agreements between different interests, which could then be documented as the plan. This is the only way out of the deadlock within which planning in Moshi was caught, a situation akin to the "knowing crisis" of modernity as observed by Friedmann.²⁴ The communicative or collaborative planning suggested by Healey, Forester and other proponents of this form of planning might be one possible solution.²⁵

The need for a changed planning approach has been made even more urgent by the land policy of 1995, which clarifies the question of customary land-tenure rights and land value. The policy declares that customary land rights, especially those of small holders, will be recognized and secure in law. Moreover, despite the fact that all land remains vested in the residency of the United Republic of Tanzania as the trustee on behalf of the citizens, it is contended that land has exchange value. Therefore, if it becomes necessary to acquire land, the rights and interests of the occupiers shall be promptly compensated in full and fairly. This new direction in land policy represents a changed context for planning, which implicitly withdraws some powers from the planners among other land administrators and instead bestows them on the holders of land rights, thus placing them in a better position to negotiate their rights in the planning system. Whereas until recently planners have only been concerned about properties to avoid or minimize the costs of compensation, they will also have to take land into account. Regard to land rights is no longer a favour from the planners, as the practice implied, it is a matter of legal right. Planners should realize the social, economic, and political implications of any line drawn on a plan, because it means the allocation of values. It is no longer a question of sitting in the office and fitting houses onto plots on a "town-planning drawing" or a layout plan, but of carrying out planning as a political process.

Following the above reflections, it is proposed that the ambivalence of the land policy and of legislation about customary land-tenure rights, and the disregarding of the exchange value of land encouraged insensitive, corrupt and unjust planning practices. The defective land policy and legislation that was not commensurate with what was actually done undermined the efficacy of land-use planning. The deficiencies inherent in the policy and legislation provided an opportunity

for some of those entrusted with government powers of planning and land management to benefit from the system at the expense of the society.

Exclusion of residents in disregard of the law

The involvement of people in decisions that affect their lives is the legal right of every citizen. This is clearly stated in Section 21 of the constitution of the United Republic of Tanzania. The exclusion of residents from the planning process denied them their democratic right to articulate their interests and values in the planning system. It provided those operating the planning and land-management system with a convenient opportunity to pursue their private interests in the system and to ensure that their ideas and values predominated. This undemocratic planning process did not, however, take planners anywhere, because they found themselves increasingly unable to intervene in the development process.

Representations by the residents through the councilors and the urban planning committee was not helpful because presentation and discussion of plans were done very superficially, and in most cases the councilors, like the experts and officials, served their own interests, regardless of how they would be viewed by their electorates. The sharing of the land committed to the psychiatric patients among those in a position of power in the state, the councilors included, is one clear example of serving self-interests at the expense of the electorate. This evidence falsifies the argument of representational theorists like Dahl, who as reported by Peter Saunders, argues that, "both electors and the leaders pursue their own narrow interests, but the interests of the latter in achieving power constrains them to act in accordance with the preference of the former".²⁶ Dahl's argument is based on his study of politics in New Haven in 1961, where, again as reported by Saunders, he observed that: "although a very small proportion of the population was ever involved directly in the city decision-making process, the system was nevertheless democratic and pluralistic; this small group was obliged at every step to take account of the political preferences of the remainder of the population, which at any time could mount an objection, and which enjoyed effective sovereignty by virtue of its electoral control over the selection of political leaders."²⁷

The experience of the Moshi case tells us that for the residents to mount an objection, much would depend on a number of factors, such as whether they are at all informed about what their representatives are doing so as to “squeal when politicians tread on their toes”, to use Saunders’s words. It also depends on whether or not people know how a particular decision affects their interests, as well as what their rights are. A decision to change use of land committed for public use may not, for instance, concern a resident of Msaranga settlement, and yet such institutional land is for the common good. This means that it is not always true that “when dogs do not bark” it is most likely because nothing has happened to provoke them, as is assumed to be true of representative democracy.²⁸ Moreover, people may object to certain decisions and not be listened to, as the Moshi case has shown with regard to the Msaranga land dispute.

However, where the councilors were committed to serve the interests of their electorates, depending on the issue at stake, planners blocked communication by presenting technical drawings which they knew councilors could not read. The planners confessed, however, that if they confronted the residents affected by the plans, each of them would seek to understand how exactly their interests would be affected. Given the multiplicity and diversity of interests involved in a particular area, it would be unrealistic to expect councilors, even those committed to serving interests of the electorate, to do what each stakeholder would demand to know. This is why planning law requires publicity and the deposition of plans, so that all those affected can have an opportunity to challenge them. This particular provision of the law was consistently ignored in the planning process, as will be discussed in the following section.

The Town and Country Planning Ordinance provides for the involvement of the stakeholders at two levels: in the process of declaring planning areas and of approving master plans and layout plans or the general planning scheme and detailed planning scheme as referred to in the law. In respect of the declaration of planning areas, the law requires prior consultation between the minister responsible for local government and the relevant local authority before a decision is made. Regarding involvement in the planning process, the law requires the planning agency to deposit the plans for public examination within a period of 3 months. If there are any objections, they should be registered and considered by the minister responsible for

planning, who is supposed to approve the plan. The law also requires a review of the master plans every 5 years, so as to accommodate changes which could not be foreseen at the planning stage.

The residents of Moshi were consulted neither during the master plan preparation nor in respect of the decision to expand the planning area or town boundary. Moreover, the Moshi master plan and all the layout plans were adopted for implementation without being publicized or deposited for public examination as required by the planning law. The master plan was also never reviewed at any moment in the two decades it was intended as a framework for managing urban change. My visits to the other towns suggested that they were all ignoring the law in respect of these matters. This finding parallels Patrick McAuslan's remark that "In Tanzania, there was and to some extent still is a fairly casual attitude towards legal procedures and legal backing for the exercise of power."²⁹ He observes a similar disregard of the law or its under-application in other developing countries, attributing this to "either ignorance of what the law was or because the political process prevented the laws being used", and he therefore concludes that "a new law would not necessarily 'solve' the problems unless the underlying problems were tackled".³⁰ While I quite agree with his conclusion, I part company with him on the question of ignorance as a reason why laws are not followed. The Moshi case has shown that laws and procedures were used selectively depending on the interests behind a particular decision. With full knowledge that it was going against the procedures for land allocation, the regional land allocation committee allocated plots on the land committed for psychiatric patients' facility prior to approval of the survey plan. In addition, the Msaranga layout plan was not publicized or deposited for public scrutiny, and it was never approved by the director of urban development. Nevertheless, it was adopted for implementation.

As an example of a country with a planning law exactly similar to that of Tanzania and derived from the same English colonial package of the 1950s, McAuslan reports the experience of Kano Urban Development Authority in Nigeria, where the law was ignored in obtaining official approval of the Kano Master Plan. Unlike what happened in Moshi, where the residents protested against the violation of law and filed a law suit against the council for trespass, in Kano, McAuslan reports that no legal action was taken by anyone. He was told by the chairman of the Kano Urban Development Authority that "authority and power rather than law was what counted in Kano".³¹

Besides Kano, he continues to report that during the 1970s, twelve more master plans were prepared by consultants for other towns within Kano state, but none of them followed the legal and administrative framework of the planning system. Moreover, he informs us that disregard of the law also occurred in the new capital at Abuja, where “no proper legal or administrative framework was established for the acquisition of land for development [or] the payment of compensation”. The outcomes were, he claims, “the peasant landowners and farmers and the workers on the site have drawn the short straw in the development of Abuja; many contractors, FCDA (Federal Capital Development Authority) officers, and other leading figures have grown rich”.³²

The parallel experiences in the disregarding of the law in the urban-planning process in Tanzania and Nigeria could be explained by the land-tenure arrangements, whereby individuals are only entitled to rights of use through government-granted rights of occupancy. This arrangement reduces the holders of land rights to mere tenants, the official recognition of customary land-tenure rights notwithstanding. And it confers extraordinary powers on the landlord – the government – and hence on those entrusted with the powers to plan and manage urban development. In Tanzania, such powers are enhanced by the Land Acquisition Act of 1967, which permits the compulsory acquisition of land subject to compensation. This applies not only to the acquisition of land for public use, such as roads, but for urban development in general.

Rational comprehensive and technocratic planning model

The Moshi case took the form of a “top-down” planning practice focused on the production of plans and arrangement of land uses as inscribed in the 1956 Town and Country Planning Ordinance Cap. 378. This product-oriented planning practice stressed the production of spatial plans – general land-use and layout plans, and the enforcement of development conditions, normally in the planned areas. Once a plan had been approved and development permission obtained, planners disappeared from the “development scene”, only to reappear if there was a dispute between developers or if development conditions were violated. Considering the typology of development,

which was based on subsistence production of housing on un-serviced plots allocated by the council or in most cases bought, the disappearance of planners from the “development scene” still left the difficult task of co-ordinating services provision to individual developers. As developers initiated development at different times, depending on whether they had saved sufficient funds to allow them to start development, the task left to them became a nightmare. Attempts by some developers to provide services based on their own initiatives was greatly impeded by the fact that some of the plot allottees were either without the resources to develop or were mere land speculators.

Evidence from the present study shows that the planners were virtually stuck. They had been forced to retreat to their “ivory towers”, from where they helplessly watched development proceeding exclusively in the pursuit of individual interests and in a disjointed manner. On the other hand, they were kept on their toes by the director of urban development, who demanded layout plans for approval; otherwise, they risked being counted as poor performers, which of course would have had implications for their professional advancement. Being under such a dilemma, and given that what counted was not the efficacy of the plan but its actual drawing up, planners could not help becoming cynical in their practice. Evidence from the Longuo case suffices to say it all. Although plans prepared with such cynicism would facilitate the granting of survey permission, the evidence shows that the survey was carried out according to the applicants’ plot boundaries, disregarding the plan. The planners then used the survey plan to amend the layout plan by removing discrepancies between the two. Given this “deductive style of planning” or “rubber-stamping” of the survey plan or reality as it was, why were planners needed in this process? Where is the planning and in what they are doing? Is not it a waste of taxpayers’ money and at the same time a high level of deception? Is it not akin to the fairy tale of Christian Andersen, “Making Emperor’s New Clothes”,³³ that planners pretended to be busy making a garment for the settlements, while actually their plans consisted of nothing? Like the little child who disclosed that the emperor was actually naked, the increasingly unmanaged growth of the towns constantly reminded the planners that they had done nothing, despite having busily made plans.

For planners to justify what taxpayers are spending on them, the materials being used for making plans, they must make an about-turn, stop prescriptions, leave their offices, and go where development is

taking place. There they will meet the real world, with real stakeholders and thus real and not imagined interests. Negotiations and agreements should proceed *there*, with these real private and collective interests. Short of that, planners and planning will increasingly lose credibility, as is the case at the moment, and marginalized at their own expense and that of the environment. Planning being an activity of the government, if it loses credibility because of its poor performance, it will be the government which has performed poorly. This will erode the state's credibility and thus undermine its legitimacy to govern. Planners as public servants should always remember that they have an obligation as public servants and not as servants of the more powerful. To succumb to power is only a convenient excuse to serve self-interest, and it implies being powerless. Using the powers available to them planners can, if committed, help the disadvantaged, the less socially and economically powerful groups. As Foucault tells us, power is everywhere and can be exercised by anyone. One source of power available to the planners is awareness of what is going on in the planning system. If they wished to exercise their powers for the benefit of disadvantaged groups, they could share that knowledge with the different interest groups. This knowledge or information – which, according to John Forester,³⁴ is power – could be shared with these groups to make them aware of what is going on around them and of the means available to them to block malpractices such as the grabbing of land committed for public use and hence for the benefit of the society. This is empowering, which planners could do. However, recognizing that planners are human beings and therefore neither saints nor beasts, they should strive to ensure that the pendulum is always moving away from them being a beast, particularly when every decision made on a plan is a political decision, because it entails the allocation of the values, benefits, and costs of development, as well as the opportunities.

As identified in the chapter which analysed the process and contents of the Moshi master plan, it is the rational comprehensive, or what Healey describes as the “command and control” model of planning, which was evident in the planning practice. This form of planning was envisioned and practised in Europe in the 1950s. It is based exclusively on the scientific, technical and instrumental rationality as observed by Jessop *et al.*, which is grounded “on logical positivism and deductive reasoning [which] defined rationality exclusively in terms of positive knowledge and instrumental calculation”.³⁵ Friedmann

describes this model of planning as the “Euclidean” or “engineering” style of planning, characterized by “blueprint” planning, that is, end-state prescriptions.³⁶ Moreover, as observed by Baum,³⁷ planning under this rational model was viewed as “acontextual” and in focusing on land-use arrangement disregarded the social, economic, and political context within which it was realized. Planners were seen as “impersonal calculators of information”, without feelings in how they practised, but also having no political interests in the world in which they operated. Planners were assumed to know what they were doing and thus did not need to be informed by those whose lives they affected. They were “psychologically a different species”. Planners were viewed as lone actors.

Tanzania’s land-use regulatory model and planning legislation have their origins in Britain. However, whereas the British legislation and planning approach continued evolving to accommodate changing socio-economic and political changes, in Tanzania the planning legislation and planning model remained static. In comparison with the evolution of planning legislation and planning models in Britain, Tanzania remains hooked on the 1947 British Town and Country Planning Act, while in terms of land-use regulation, it is grounded in the 1950s development-plan model. However, after the 1960s, Britain pursued a different regulatory model of development plan than that practised in Tanzanian today. Healey differentiates the contextual meaning of the two types of development-plan regulatory models and their respective views of the public interest as follows: “In the first, the state is seen as orchestrator and developer, using plans as ‘blueprints’ for its development activities It is the archtypal ‘command and control’ model. In the second, the plan is a store of policy principles and criteria, goals and objectives, intended to guide but not determine regulatory decisions. The principle here is to provide sufficient flexibility to allow a ‘reasonable’ balance of individual and collective interests on specific decisions ... [both models] assumed unitary public interest. Plan making could proceed dominated by experts and officials, realizing political goals which were assumed to be widely understood and shared.”³⁸

According to Healey, Britain followed the second model, later, in the 1970s, changing to a regulatory model which saw the planning system as a process of conflict mediation. As is evident in the Moshi case, Tanzania still embraces the first regulatory model, the blueprints practised under the master planning approach, which assumes that the

state is the developer. This regulatory model co-existed very well with the socialist political ideology of the state in Tanzania, under which the state was the main provider of services and infrastructure, investor and owner of industries, commercial and service institutions, etc. No wonder, therefore, that the model has been maintained unchanged.

However, as is evident in the Moshi case, the regulatory model worked only as far as the location of public investments was concerned and where land-use rights were held by the government. It was ineffective where land-tenure rights were held under the customary system, and it was virtually breaking down as the state increasingly changed its role from being a provider of services and of land for housing in particular. With this shift, the technocratic, prescriptive, command and control model of planning is becoming increasingly inappropriate. The prevailing political pluralism and market-oriented economy call for urgent subversion of this planning model if the land-use planning system is to improve its poor performance and play its central role in the agenda for sustainable development.

This research has shown that planning is strongly associated with power and politics, thus falsifying the classic rational planning theorists' notion of planning as a purely technical exercise based on technical rationality, and that politics is exclusively for politicians and rationality for planners.³⁹ The more planners appreciate that planning is about politics and power, the better equipped they will be equipped to practise planning in the political world. On the basis of these reflections, it is proposed that the de-contextualized and apolitical form of planning in terms of its notions, values, and ideas contributed to the planners' incompetence and thus to the poor performance of planning in regulating land-use change as intended. The planning practice based on planning as design and as apolitical activity perpetuated the prescriptive and technocratic or Euclidean model of planning. The confrontations and conflicts which pervaded land development in the case study signalled a rejection of this planning model and generated a demand for a democratic planning approach.

A strong civil society as a pillar of democracy

The confrontations and conflicts which characterized land-use change in the case study signalled a rejection of the prescriptive form of planning by civil society in Moshi. Besides excluding those whose

lives the plans were intended to affect, it assumed knowledge of what was good for them. It is instructive to indicate here that what was being rejected was neither the idea of planning nor the process of urbanization; rather, it was the way planning was practised as if people and their values and interests in an area did not matter. This interpretation is supported by evidence from Msaranga and Longuo. Responding to charges of inciting his people to protest against implementation of the layout plan for their area, the Msaranga chairman stated that: "Msaranga residents know very well that every country in the world has towns; these towns begin small, as Moshi did; however, their growth is inevitable. It is comparable to putting water in a basin: if you put in a stone, the volume of water will increase to take more space. However, there must be procedures to guide that growth. Expansion should not be done haphazardly, disregarding the interests of those who are found living where town growth must take place" ⁴⁰ In Longuo, residents and local leaders invited planners to assist them in resolving their environmental problems, but as we have seen, initially planners did not respond to the call. When they did, their response disregarded the agreement which had been reached between the holders of land rights and the surveyor, as well as one which local leaders had reached with a holder of land rights who, after negotiations, agreed to offer part of his land for an extension of the Longuo-Sokoine primary school.

The Longuo example has also shown how the surveyors managed to facilitate residents of the area to negotiate agreements on aspects of collective good such as roads, for the provision of which neighbours willingly contributed land. It is this kind of agreement that the planners were unable to achieve. One councilor observed that if you ask planners to justify their plans, they will answer "this is according to standards or the master plan". The planners' knowledge of standards, their professional norms and design values seem to have crippled them and thus to have impeded them in thinking innovatively and realistically. It is this the inherent knowing crisis to use the words of Friedmann, which blinded them to opportunities, even where a new leaf might be turned to make planning meaningful and to improve its efficacy. ⁴¹ In the case of Longuo, planners were not responsive to such opportunities because they knew in advance what was good for the people and hence what should be prescribed for them. This particular problem of the planners resembles what Friedmann describes as a "knowing crisis", which has contributed to a failure of

planning and to its unpopularity in many countries.⁴² It also confirms common characteristics of the positivist planning approach.

As the previous chapters showed, when confronted with the opposition of a vigorous civil society, planners were forced to denounce the technocratic and prescriptive model planning model in favour of a democratic planning approach, thus setting in motion a process of subversion of this form of planning. Despite the fact that there might be other interests and real rationalities at work than those that are obvious in this initiative, it is a fact that the resistance mounted by the residents in customary land-tenure areas restrained land-use planning in those areas. And for the council to legitimate its role, it was compelled to search for the collaborative and more inclusive planning approach.

This achievement is evidently a success for democracy and a confirmation of Flyvbjerg's proposition that we should view conflicts not as necessarily "dangerous, corrosive and potentially destructive ...".⁴³ As Tocqueville also argued, "democratic government is strengthened not weakened, when it faces a vigorous civil society".⁴⁴ The result of the residents' struggle tells us that laws and procedures do not guarantee democracy. However, a strong civil society which is informed about its rights and is ready to confront those who are entrusted with state powers in the interpretation and use of those laws and procedures can make democracy work. This tells us further that the reviewed policies, laws, regulations, procedures, and other institutional reforms in Tanzania since the adoption of political pluralism is not a panacea for democracy. Democratic practices can only be ensured by a vigilant civil society, as the case story demonstrates. This provides a "fertile ground", to use Putnam's words, for institutionalizing the democratic planning approach, because as is evident from his Italian example of the performance of democratic institutions, the performance of democracy is very much a function of the existence or non-existence of civic traditions.⁴⁵ The existence of civic traditions, argues Putnam, provides a "fertile ground" for democratic institutions, while the opposite is true in less civic areas.

Following the above, it is concluded that it was neither the urbanization process nor planning which was being rejected by the protesting communities, but the way planning was, as if people and their rights and interests in place did not matter. The conflicts and confrontations which pervaded the land-development process gradually but steadily restrained the prescriptive and technocratic form of planning in practice,

so that in the end planners were compelled to search for a democratic form of planning. This, it is suggested, is a success for democracy. It is therefore proposed that a strong civil society is a pillar of democracy. It follows, therefore, that the empowerment of civil society should be a reassuring means of preventing the domination, deprivation, misuse, and abuse of powers by the operators of the planning system.

Notes and References

Chapter 1

¹ Healey, P. *et al.*, *Land Use Planning and the Mediation of Urban Change: The British Planning System in Practice*. 1988, p. 11.

² See Taylor, J.L. and Williams, D.G., *Urban Planning Practice in Developing Countries*. Pergamon Press, Oxford, 1984.

³ See Devas, N. and Rakodi, C. (eds.), *Managing Fast Growing Cities: New Approaches to Urban Planning and Management in the Developing Countries*. Longman Group UK Ltd., 1993.

⁴ Ward, S.V., *Planning and Urban Change*. Paul Chapman Publishing Ltd., London, 1994.

⁵ *Ibid.*

⁶ Keeble, L., *Principles and Practice of Town and Country Planning*. London, 1964.

⁷ The United Republic of Tanzania, The National Land Policy 1995.

⁸ In the Land Ordinance Cap. 113 of 1923, unexhausted improvement is defined as anything or any quality permanently to the land directly resulting from the expenditure of capital or labour by an occupier. Occupier means the holders of the right of occupying or using land in accordance with the native law and custom, or any person acting on his behalf and increasing the productive capacity, the utility or the amenity thereof, but does not include the results of ordinary cultivation other than standing crops or growing product.

⁹ Bracken, I., *Urban Planning Methods: Research and Policy Analysis*. London, 1981.

¹⁰ Healey, P., *Whatever Happened to Methodology in Land-use Planning?* *Ekistics* 311, 1985.

¹¹ UN-Habitat, *State of the World's Cities 2006/7*, The Millennium Development Goals and Sustainability: 30 years of shaping the Habitat Agenda, Earthscan UK and USA, 2006.

Chapter 2

¹ Healey, P., *Development Plans: New Approaches to Making Frameworks for Land-use Regulation*. Paper prepared for *Journal of European Planning Studies*, 1994, p. 27.

² Ambrose, P., *Whatever Happened to Planning?* Methuen and Company Ltd., London, 1986, p. 266–267.

³ The United Republic of Tanzania, *Second Five Year Plan for Economic and Social Development (1969–1974)*.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Mabogunje, A.L., *Urban Planning and the Post-colonial State in Africa: A Research Overview*. African Urban Studies Review, Volume 33, No. 2, 1990, pp. 130–131.

⁷ Graciana, P., *Rural–Urban Linkages: The Case of Dodoma Region, Tanzania*. Ph.D. Thesis, submitted to the University of Glasgow, Faculty of Social Sciences, Department of Geography, 1990.

⁸ Kironde, L., *The Evolution of the Dar es Salaam Land Use Structure 1890–1990: The Effects of Land Policy*. Unpublished Ph.D. Dissertation, University of Nairobi, 1995.

⁹ *Ibid.* *Supra* note 6, pp. 131–132.

¹⁰ Max, O.J., *The Development of Local Government in Tanzania*. Dar es Salaam, 1991.

¹¹ Lipiga, A. *Evolution of Local Government in Tanzania 1926–1993*. Unpublished Ph.D. Thesis, submitted to the University of Pittsburg, 1993.

¹² Nyerere, J.K., quoted in Max, O.J., *The Development of Local Government in Tanzania*. Dar es Salaam, 1991.

¹³ Stren, R. and White, R., *African Cities in Crisis: Managing Rapid Urban Growth*. Westview Press Colorado, 1989.

¹⁴ Hayuma, A.M., *The Evolution and Operations of Urban Local Government Authorities in Tanzania 1899–1986*. Unpublished Occasional Paper No. 9, Ardhi Institute, 1986.

¹⁵ Kulaba, S.M., *Urban Growth and the Management of Urban Reform, Finance, Services and Housing in Tanzania*, 1989, p. 79.

¹⁶ United Republic of Tanzania. *A Report on the Presidential Commission of Inquiry into Land Matters*, 1992, p. 79.

¹⁷ Nnkya, T.J. and Kombe, W., *Lindi Master Plan*. Royal Danish Academy of Fine Arts, School of Architecture, Copenhagen, 1984. In the study carried out for the Lindi Master Plan, the authors established that

villagization prompted people to move to Lindi Town during the 1970s. Most of the migrants interviewed said that they escaped the harsh administrative conditions in the villages where they were forced into communal cultivation. They claimed that life in the town was far better, because they could obtain all the basic services as well as a ready market for their agricultural produce, while in the village they would have no buyers. These migrants were full-time farmers and cultivated land located outside the town's boundaries.

¹⁸United Republic of Tanzania, Inter census 1968, 1978, and 1988 comparisons show clearly that the highest growth of towns took place between 1968 and 1978. The average urban growth rate between 1957 and 1967 was 6 per cent, between 1967 and 1978 it was 11 per cent, and between 1978 and 1988 it was 8 per cent. The most recent national population census of 2002 indicates that this rate has declined to 4.5 per cent.

¹⁹Maliyamkono, T.L. and Bagachwa, M.S.D., *The Second Economy in Tanzania*. University Press, Ohio, 1990, pp. 1–2.

²⁰*Ibid.*, pp. 2–8.

²¹Moshi Town by then had Town Council status, constituted according to Section 15 Subsection 2 and Section 17 Subsection 2 of the Town and Country Planning Ordinance, a Planning Area and a Planning Preparatory Authority within its area of jurisdiction.

²²The administrative arrangement options which could be followed in the adoption of the Moshi master plan are elaborated in Section 5 of the Town and Country Planning Ordinance as follows: "In the case of a planning area partly within and partly without a township whose authority is a Town Council[,] (a) if the Town Council and the Local Authorities of the part of the planning area outside the township consent[,] the Area Planning Committee shall be the Town Council; (b) if the Town Council or the Local Authorities of that part planning area outside the township do not agree that the Town Council shall be the Area Planning Committee for the whole planning area, there shall be two Area Planning Committees[;] in respect of the Planning Committee for that part of the planning area within the township and the Minister shall appoint a Joint Area Planning Committee ... in respect of that part of the planning area outside the township."

²³Letter, Reference No. C./B/1, dated 24 January 1972.

²⁴*Ibid.*

²⁵Letter, Reference No. TP/R/4/45, dated 10 January 1973. *Source*: Moshi Municipal Council archive.

²⁶ Minutes of the first meeting held in the regional development director's office, on Moshi master plan preparation, on 22 January 1973. *Source*: Moshi Municipal Council archives.

²⁷ *Ibid.*

²⁸ The United Republic of Tanzania, *The Arusha Master Plan*. Prepared by PADCO, 1969.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Sunday News* newspaper, dated 26 August 1973.

³² *Ibid.*

³³ Letter, dated 25 July 1973, written by the Finnish planner in charge of the preparation of the master plan, to the regional development director, Kilimanjaro region. *Source*: Kilimanjaro Regional Town Planning Office archive.

³⁴ Minutes of a meeting between the master plan preparers and the representatives of the sub-district at the Moshi master plan presentation held on 6 March 1974. *Source*: Kilimanjaro Regional Town Planning Office.

³⁵ Minutes of the Moshi sub-district development and planning committee meeting held on 3 March 1974 to discuss the draft Moshi master plan. *Source*: Moshi Municipal Council archive.

³⁶ Moshi Master Plan 1974 Main Report.

³⁷ *Ibid.* p. 26.

³⁸ *Ibid.*

³⁹ *Ibid.* p. 42.

⁴⁰ Moshi Master Plan Main Report.

⁴¹ The principal legislation Town and Country Planning Ordinance Cap. 378 was revised in 1961. Prior to that, a subsidiary regulation on the constitution of joint area planning committees had been added in 1959 and 1960; two more regulations were added in respect of Use Classes and Application for Planning Consent. In 1964 a regulation on Modification of Planning Scheme was added and in 1993 the Use Classes regulation was revised and its groups expanded to accommodate agriculture, conservation of ecologically fragile lands, and preservation of cultural properties and sites.

⁴² Sections 29–31 of the Town Country Planning Ordinance stipulates that prior to the approval of plans by the minister responsible for planning, it should be deposited for 3 months at a place convenient for all concerned parties to study. On the basis of this, any discontented individual or government can register objection with

the minister. The minister may with or without modification approve the plan.

⁴³ Letter dated 22 November 1976, from the regional land development officer to the regional commissioner. *Source*: Kilimanjaro Regional Town Planning Office.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ See Healey, P., *The Communicative Work of Development Plans*. Paper produced for Burchell, B., Mandelbaum, S. and Mazza, L., *Planning Theory in the 1990s*. CUPR Press, Rutgers, 1992, p. 5.

⁴⁷ Healey, P., *Development Plans: New Approaches to Making Frameworks for Land Use Regulation*. Paper produced for *Journal of European Planning Studies*, 1992, p. 4.

⁴⁸ Friedmann, J., *Toward a Non-Euclidean Mode of Planning*. *American Planning Association Journal*, Autumn, 1993. p. 1.

⁴⁹ Bryson, J. and Crosby, B., *Leadership for the Common Good: Tackling Public Problems in a Shared Power-World*. Jossey-Bass Publishers, 1992, p. 63. Bryson and Crosby defines public policy as a “substantive decisions, commitments, and actions made by those who hold or affect government positions of authority as they are interpreted by various stakeholders”.

⁵⁰ *Ibid.* *Supra* note 47, p. 4.

Chapter 3

¹ McAuslan, P., *The Role of Law in Urban Planning*. In Devas, N. and Rakodi, C. (eds.), *Managing Fast-Growing Cities in Developing Countries: New Approaches to Urban Planning and Management in Developing World*. Longman Scientific & Technical, UK, 1993, p. 236.

² Moshi Town, which by then had Town Council status, constituted, according to Section 15 Subsection 2 and Section 17 Subsection 2 of the Town and Country Planning Ordinance, was a Planning Area and a Planning Preparatory Authority within its area of jurisdiction.

³ Letter, Reference No. CL.20/3/4, dated 28 July 1978. *Source*: Moshi Municipal Council archive.

⁴ Letter, Reference No. PM/UA/M.70/1, dated 18 July 1979. *Source*: Moshi Municipal Council archive.

⁵ Government Notice No. 117 published on 9 November 1979. *Source*: Moshi Municipal Council archive.

⁶ Interview with the former zonal town planning officer for Kilimanjaro region.

⁷ Minutes of the regional development committee held on 12 May 1978. *Source*: Moshi Municipal Council archive.

⁸ A report on boundary disputes, written by the Moshi Town director at the request of the Moshi District party secretary. *Source*: Moshi Municipal Council archive.

⁹ A report on briefing meetings held in settlements incorporated into Moshi Town after the boundary extension in 1978, dated 22 October 1979. *Source*: Moshi Municipal Council archive.

¹⁰ Letter, Reference No. PMC/E.100/1/54, dated 2 November 1979, from the principal secretary, Prime Minister's Office to the regional party secretary.

¹¹ Interview with one of the delegates from Longuo village to the delegation sent to see the prime minister on the issue of the boundary extension.

¹² Interview with the councilor for Longuo and present mayor of Moshi Municipal Council.

¹³ Letter, Reference No. A.70/2/85, dated 3 December 1979. *Source*: Moshi Municipal Council archive.

¹⁴ Letter, Reference No. W/AS/T/4017/A/22, dated 27 December 1979. *Source*: Moshi Municipal Council archive.

¹⁵ Letter, Reference No. W/AS/T/4017/A/25, dated 11 March 1980. *Source*: Moshi Municipal Council archive.

¹⁶ Letter, Reference No. TP/R/4/Vol.II/120, dated 19 April 1980. *Source*: Moshi Municipal Council archive.

¹⁷ Letter, Reference No. W/AS/T/4017/A/29, dated 9 May 1980. *Source*: Moshi Municipal Council archive.

Chapter 4

¹ Farvacque, C. and MacAuslan, P., *Reforming Urban Land Policies and Institutions in Developing Countries*. Urban Management Programme policy paper, 1992, p. xvii.

² Layout Plan or Detailed Planning Scheme as referred in the Tanzanian Town and Country Planning Ordinance shows subdivision of plots, that is, private spaces, public spaces to include roads, footpaths, and other physical infrastructure, open spaces, plots for community

facilities, etc. On the basis of which cadastral survey of building plots is done.

³Two types of villages can be identified in Tanzania: the traditional village, whose settlement pattern was unaffected by the resettlement or villagization programme carried out in most parts of the country from 1973 to 1976; and ujamaa villages, which were established consequent to that programme.

⁴Interview with Mzee Macha.

⁵Interview with Dr Kiwelu.

⁶Interview with Stanley Temba.

⁷A group interview with Mzee Temba, Ruben Ringo, Naftali Ringo and Ainea Maro. The *Wameeku wa Mfongo* was also responsible for the routine maintenance of roads and bridges in their locality.

⁸Letter, Reference No. TC/TP/1/37, dated 2 January 1979. *Source*: Moshi Municipal Council archive.

⁹*Ibid.*

¹⁰The Third Schedule of the Town and Country Planning Ordinance enables expunging of boundaries of individual land rights, pooling together all land in question, carrying out a redevelopment plan so as to provide spaces for public infrastructure and services, and redistribution of the remaining land to the original land rights holders. Where the plot size is reduced more than 20 per cent of the original size, the landowner should be compensated.

¹¹Letter, Reference No. TC/TP/1/37, dated 2 January 1979. *Source*: Moshi Municipal Council archive.

¹²Letter, Reference No. TP/52/KL/3/168, dated 26 December 1978. *Source*: Regional Town Planning Office archive.

¹³*Ibid.*

¹⁴*Ibid.*

¹⁵Technical Instruction issued by the director of urban planning in 1979 required planners in the local authorities and regions to submit plans to him in Dar es Salaam for his "professional input" before they were presented to the urban planning committee for "political input". *Source*: Moshi Municipal Council archive.

¹⁶Letter, Reference No. TP/52/KL/3/168, dated 26 December 1978. *Source*: Regional Town Planning Office archive.

¹⁷Minutes of urban planning committee meeting held on 6 April 1983. *Source*: Moshi Municipal Council archive.

¹⁸*Ibid.*

¹⁹In the rest of this account, the party branch chairman will be referred to as the Msaranga chairman.

²⁰Interview with the Msaranga chairman, 1982–1985 and 1990–1994.

²¹Interview with the former chairman of Msaranga.

²²*Ibid.*

²³*Ibid.*

²⁴Interview with Ruben Ringo.

²⁵A group interview with Ruben Ringo, Ainea Maro, Mzee Temba, and Naftali Ringo.

²⁶Interview with Macha, former chairman of Msaranga.

²⁷Interview with a group of residents Ruben Ringo, Ainea Maro, and Mzee Temba.

²⁸*Ibid.*

²⁹The broad-acre concept, as applied in Dodoma, entailed allocating large one-hectare plots for mixed uses to include farming. These were located in a green belt to be set up around proposed communities.

³⁰Interview with the former regional land development officer at the time of preparation of the Msaranga layout plan.

³¹Interview with the former chairman of Msaranga.

³²Letter, Reference No. KIK/1/1, dated 19 November 1983.

³³Minutes of villagers' meeting held on 27 October 1983, and interview with Macha, the former chairman of Msaranga.

³⁴Minutes of villagers' meeting held on 27 October 1983.

³⁵*Ibid.*

³⁶Interview with one of the surveyors who carried out the survey.

³⁷*Ibid.*

³⁸Letter from the town director to the district commissioner. *Source*: Moshi Municipal Council archive.

³⁹Letter, Reference No. CCM/KK/140/49, dated 11 November 1983. *Source*: Moshi Municipal Council archive.

⁴⁰*Ibid.*

⁴¹Section 9(4) of the Local Government (Urban Authorities) Act stipulates that "Where the area of the authority was the area of a district authority, the district authority shall cease to exist and the affairs and operations of all persons and bodies of persons within that area shall be under the jurisdiction of the authority"

⁴²Letter, Reference No. MTC/CYO/22 Vol.III/132, dated 14 November 1983. *Source*: Moshi Municipal Council archive.

⁴³Land Ordinance Chapter 113 of the Laws of Tanzania.

Chapter 5

¹ Douglas, F., quoted in Bryson, J.M. and Crosby, B., *Leadership for the Common Good: Tackling Public Problems in a Shared Power World*. Josey-Bass Publishers, San Francisco, 1992, p. 3.

² Mead, M., quoted in Bryson, J. and Crosby, B., *Leadership for the Common Good: Tackling Public Problems in a Shared Power*. Josey-Bass Publishers, San Francisco, 1992, p. 121.

³ Letter, Reference No. TC/TP/I/Vol.II/49, dated 15 November 1983. *Source*: Moshi Municipal Council archive.

⁴ Letter, Reference No. KIK/1/1, dated 19 November 1983. *Source*: Msaranga Residents' Committee archive.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Letter dated 26 November 1983.

¹² Interview with Msaranga chairman.

¹³ Interview with Dr Jesse Merinyo Maro.

¹⁴ Interview with Stanley Temba.

¹⁵ Interview with Dr Kiwelu.

¹⁶ *Ibid.*

¹⁷ Letter, Reference No. PMO/UA/6973/39, dated 30 December 1983.

¹⁸ Letter, Reference No. 153/2/KVC/84, dated 4 January 1984.

¹⁹ *Ibid.*

²⁰ Minutes of an emergency meeting held on 5 January 1984, at the former Msaranga primary school, for the residents of Kikarara, Mdawi and Kiboriloni.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Minutes of urban planning committee meeting, held on 18 January 1984. *Source*: Moshi Municipal Council archive.

²⁷ Letter from Msaranga villagers to the prime minister, dated 6 January 1984. Minutes of an emergency meeting held on 5 January 1984, at the

former Msaranga primary school, for the residents of Kikarara, Mdawi and Kiboriloni. *Source*: Msaranga Residents' Committee.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Interview with Mzee Peniel Macha, former chairman of Msaranga.

³² Minutes of a village committee meeting held on 25 May 1984.

³³ Interview with Macha. In 1982/83, US\$ 1.00 was worth about Tsh. 16.

³⁴ Interview with Stanley Temba.

³⁵ Letter, Reference No. MTC/TP/1/VOI.II/91, dated 5 November 1985, written by the head of the council planning department to the town director. *Source*: Moshi Municipal Council archive.

³⁶ *Ibid.*

³⁷ Interview with council planner.

³⁸ Letter, Reference No. MS/T/GEN/225, dated 15 June 1984, from the regional surveyor to the director of urban planning. *Source*: Moshi Municipal Council archive.

³⁹ Letter, Reference No. TP/R/4/III/39, dated 1 February 1985, from the director of urban planning. *Source*: Moshi Municipal Council archive.

Chapter 6

¹ McAuslan, P., *The Role of Law in Urban Planning*. In Devas, N. and Rakodi, C. (eds.), *Managing fast Growing Cities in Developing Countries, New Approaches to Urban Planning and Management in Developing World*. Longman Scientific & Technical, UK, 1993, p. 241.

² Complaint filed by counsel for the plaintiff village councils on 7 April 1993. *Source*: Msaranga Residents' Committee archive.

³ In 1984, Tsh. 16 was equivalent to US\$ 1.

⁴ *Ibid.* *Supra* note 2.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Letter from the Msaranga residents' committee, 6 June 1984.

¹⁰ *Ibid.*

¹¹ Letter from the district party chairman to the Msaranga chairman.

¹² Letter from the principal secretary, Prime Minister's Office, to the Ministry of Justice. *Source*: Moshi Municipal Council archive.

¹³ *Ibid.*

¹⁴ Court proceedings.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Court proceedings filed on 8 October 1984 for Miscellaneous Civil Application No. 59 of 1984: Kikarara Village Council, Msaranga Village Council and Mdawi Village Council versus Moshi Urban Council. *Source:* The High Court of Tanzania, Arusha.

¹⁹ Letter, Reference No. LTC/A/16/MTC/11, dated 8 October 1984. *Source:* Moshi Municipal Council archive.

²⁰ Minutes of Msaranga political affairs committee.

²¹ Ruling delivered on 26 October 1984 by the High Court of Tanzania at Arusha. *Source:* High Court of Tanzania, Arusha.

²² *Ibid.*

²³ *Ibid.*

Chapter 7

¹ Kant, I. quoted in Flyvbjerg, B., *Rationality and Power: Democracy in Practice*, The University of Chicago Press, London, 1998, p. 229.

² Interview with the former chairman of Msaranga.

³ *Ibid.*

⁴ *Ibid.*

⁵ Letter, Reference No. CCM/W.MM/WM/169/6, dated 29 December 1984.

⁶ Interview with Stanley Temba.

⁷ Minutes of urban planning committee meeting held on 8 January 1985. *Source:* Moshi Municipal Council archive.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Letter, Reference No. N/324/9/8, dated 20 August 1985. *Source:* Msaranga party chairman.

¹¹ Written statement of defence by the council planner, presented for filing on 9 March 1985. *Source:* High Court of Tanzania, Arusha.

¹² Letter from Member of Parliament for Moshi rural district, dated 16 September 1985.

¹³ Court proceedings, 8 October 1985.

¹⁴ Letter, Reference No. TC/TP/1/VI/121, dated 4 December 1985.

¹⁵ Court proceedings, 5 August 1985.

¹⁶ Letter, Reference No. TC/TP/1/IV/144.

¹⁷ Letter from the villagers to the President of the United Republic of Tanzania, dated 3 January 1987. *Source*: Msaranga village archive.

¹⁸ The residents' letter referred to Section 24(i) and (ii) of the Constitution of the United Republic of Tanzania which states that people have right to participate in decisions that affect their lives. The Land Ordinance, Chapter 113 of the laws of Tanzania, provides for the compensation of unexhausted improvement only. Land is regarded as having no exchange value, so if it is acquired no compensation is paid for undeveloped land. This law is currently under review, following the adoption of a new land policy which recognizes the value of land.

¹⁹ Second letter from the villagers to the President of the United Republic of Tanzania, dated 3 October 1987. *Source*: Msaranga village archive.

²⁰ *Ibid.*

²¹ *Ibid.*

²² Court proceedings, 2 February 1988. *Source*: High Court of Tanzania, Arusha.

²³ *Ibid.*

²⁴ Court proceedings, 28 February 1988. *Source*: High Court of Tanzania, Arusha.

²⁵ According to urban administration guidelines issued by the Prime Ministers' Office in 1980, a municipality is the level next to a city, among other set criteria; for urban local authority to become a municipality should have a population of 80,000 and above.

²⁶ Letter from Msaranga villagers to the president of the United Republic of Tanzania, dated August 1988.

²⁷ *Ibid.*

²⁸ Letter from the president of the United Republic of Tanzania to Msaranga residents, dated 8 December 1988.

²⁹ Letter from the residents' committee to the president of the United Republic of Tanzania, dated 14 February 1989.

³⁰ Letter from the municipal valuer to the ten cell leaders, dated 13 March 1989.

³¹ Letter from the residents to the national party chairman, dated 29 March 1989.

³² Letter from the national chairman to the residents, dated 30 May 1989.

³³ Interview with Dr Merinyo Maro.

- ³⁴ Letter, Reference No. P. 70/2/11/223, dated 11 September 1989, from the regional commissioner to the High Court of Tanzania at Arusha.
- ³⁵ Letter, Reference No. TLC/A/16/MTC/11, dated 11 December 1989, from counsel for the defence to Moshi municipal council.
- ³⁶ Court proceedings, 11 January 1990.
- ³⁷ Court proceedings, 9 March 1990.
- ³⁸ Letter, Reference No. MM/KLI./TP.4/9/226, dated 15 March 1990.
- ³⁹ Instruction, dated 2 April 1990, written by the director of urban development to the planning officer in the urban development directorate.
- ⁴⁰ Letter, Reference No. TP/K/4/111/114, dated 26 March 1990, from the director of urban development to the regional town planning officer.
- ⁴¹ Court proceedings, 24 July 24 1990.
- ⁴² Court proceedings, 18 August 1990.
- ⁴³ *Ibid.*
- ⁴⁴ Court proceedings, 14 December 1990. *Source:* High Court of Tanzania, Arusha.
- ⁴⁵ *Ibid.*
- ⁴⁶ Court proceedings, 15 December 1990. *Source:* High Court of Tanzania, Arusha.
- ⁴⁷ Letter of application, dated 17 January 1991. *Source:* Moshi Municipal Council archive.
- ⁴⁸ Court proceedings, 15 March 1991. *Source:* High Court of Tanzania at Arusha.

Chapter 8

- ¹ Interview with the planners who carried out the planning exercise.
- ² *Ibid.*
- ³ *Ibid.*
- ⁴ *Ibid.*
- ⁵ *Ibid.*
- ⁶ *Ibid.*
- ⁷ Letter, Reference No. MMC/L 20/1 III/135, dated 8 June 1990, from the municipal surveyor to the regional surveyor in charge. *Source:* Moshi Municipal Council archive.
- ⁸ Letter, Reference No. 2050/5/III/130, dated 3 April 1989, written by the director of surveys and mapping to the director of urban planning. *Source:* Moshi Municipal Council archive.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Letter, Reference No. TP/01/271/10, containing Technical Directive No. 1 of 1989 from the director of town planning to the regional town planning officers and all heads of town planning departments in urban councils. *Source:* Moshi Municipal Council archive.

¹² *Ibid.*

¹³ Guidelines for plan preparation, survey, and land allocation, Ministry of Lands, Housing and Urban Development, 1989.

¹⁴ Technical Directive No. 1 of 1979 from the director of urban planning to all regional town planning officers in mainland Tanzania.

¹⁵ Letter, Reference No. TP/R/4/III/164, dated 13 February 1991.

¹⁶ Minutes of the regional land allocation committee meeting held on 9 September 1992.

Chapter 9

¹ Village Registration Certificate No. KM. KJ. 53, issued on 2 April 1976. *Source:* Longuo village archive.

² Village Council Incorporation Certificate No. KM./VC.53, issued on 16 June 1976. *Source:* Longuo village archive.

³ Report Reference No. MTC/CC/22/14, dated 26 August 1982, written by the Moshi Town director regarding boundary disputes between Moshi Town Council and Longuo, Kariwa and Rau villages. *Source:* Moshi Municipal Council archive.

⁴ *Source:* Moshi Town aerial photographs taken in 1971, 1983, and 1992.

⁵ House registration exercise carried out to establish sampling frame for the structured survey.

⁶ *Kihamba* is a Chagga word for a piece of land which is permanently under the custodianship of a clan or family. Ownership rights are held under customary law.

⁷ Interview with Joseph Mushi.

⁸ Interview with Shabani Mfaume of Longuo Kitandu.

⁹ *Ibid.*

¹⁰ Interview with Shirima, landowner in Longuo

¹¹ Interview with the councilor for Longuo.

¹² Minutes of Longuo ward development committee meeting held on 12 May 1989.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Interview with Shirima, Longuo Resident.

¹⁷ Interview with the council planners.

¹⁸ Letter of application for survey permit submitted to the council by a group of fourteen Longuo residents, dated 15 November 1990.

¹⁹ Interview with Akwiline Chuwa, landowner in Longuo.

²⁰ Interview with the land surveyor in charge of the preliminary survey at Longuo.

²¹ Interview with Manyara.

²² Interview with Francis Zakaria.

²³ Interview with Shirima.

²⁴ Interview with planner 2.

²⁵ Interview with Shabani Mfaume, landowner in Longuo.

²⁶ Interview with the councilor for Longuo ward.

²⁷ Interview with Shirima.

²⁸ Interview with Manyara.

²⁹ The decree issued by the court on 24 November 1983 directed Moshi town council, who were the defendant in the legal suit, to stop committing nuisance on Longuo village, as petitioned by the villagers (the plaintiff). *Source*: High Court at Arusha.

³⁰ Interview with the council planner who prepared the layout plan for Longuo.

³¹ Interview with the surveyor in charge of the preliminary survey.

³² *Ibid.*

³³ Interview with the planner who prepared the Longuo plan.

³⁴ *Ibid.*

³⁵ Interview with Akwiline Chuwa.

³⁶ Interview with Shabani Mfaume.

³⁷ Interview with Francis Zakaria.

³⁸ Interview with Akwiline Chuwa.

³⁹ *Ibid.*

⁴⁰ Interview with Mr Shirima, a landowner in Longuo.

⁴¹ Interview with planner 2.

Chapter 10

¹ Nietzsche, F., quoted in Flyvbjerg, B., *Rationality and Power, Democracy in Practice*. The University of Chicago Press, London p. 183.

²Minute 10/93 of urban planning committee meeting held on 15 March 1993. *Source*: Moshi Municipal Council archive.

³Interview with the head of section in the Council Urban Planning Department.

⁴Interview with the planner in charge of the Longuo layout plan.

⁵Planning brief for Longuo settlement regularization plan.

⁶*Ibid.*

⁷*Ibid. Supra* note 4.

⁸*Ibid.*

⁹*Ibid. Supra* note 4.

¹⁰Interview with the surveyor in charge of the preliminary detailed survey.

¹¹*Ibid. Supra* note 4.

¹²Interview with planner 2 from the Council Planning Department.

¹³See Flyvbjerg, B., *Power has a Rationality that Rationality Does Not Know*. Department of Development and Planning, Aalborg University, Denmark, 1991.

¹⁴See Forester, J., *Practical Rationality in Plan-making*. In Breheny, M. and Hopper, A. (eds.), *Rationality in Planning*. Pion, London, 1985, p. 206.

¹⁵Interview with the planner who prepared the plan.

¹⁶Interview with planner 2.

¹⁷Minute 10/93 of urban planning committee meeting held on 26 May 1993. *Source*: Moshi Municipal Council archive.

¹⁸Interview with Shabani Mfaume.

¹⁹Interview with the council planner in-charge of the Longuo layout plan.

²⁰Letter, Reference No. MM/KL.1/TP.4/18/Vol.II/28, dated 9 September 1993, addressed to the director of urban development. *Source*: Regional Town Planning Office archive.

²¹Minutes of urban planning committee meeting held on 24 January 1994. *Source*: Moshi Municipal Council archive.

²²Report by council planner on tasks carried out by the Urban Planning Department, January to March 1994.

²³Interview with the planner in charge of the Longuo layout plan.

²⁴Interview with the council planner.

²⁵*Ibid.*

²⁶MacNeil, D., *Planning with implementation in view*. Third World Planning Review, Volume 7, No. 3, August 1985. MacNeil divides planners into three groups in terms of their response to the discrepancy between theory and practice: blind, cynical and pragmatists. The first

is blind of any discrepancy. "Until their eyes are opened they will continue to uncritically engage in the same fruitless activity..." The second group consists of cynics, who are aware that "practice is very different from the theory, and that the plans they prepare will never become a reality". The third category comprises "pragmatists ... who fully appreciate the realities of the situation, and do their best within the severe constraints imposed upon them to bring about some beneficial changes".

²⁷ Interview with the council planner.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Part of an interview with the head of planning section in the Council Planning Department.

³² *Ibid.*

³³ Weaver, C., Jessop, J. and Das, V., *Rationality in The Public Interest: Notes Toward A New Synthesis, in Rationality in Planning*. In Breheny, M. and Hopper, A. (eds.), 1985, pp. 145–165.

³⁴ Land Ordinance, Chapter 113 of the Laws of Tanzania.

Chapter 11

¹ Flyvbjerg, B., *Rationality and Power: Democracy in Practice*. The University of Chicago Press, London, 1998, p. 228.

² William Riker quoted in Flyvbjerg, B., *Rationality and Power: Democracy in Practice*. The University of Chicago Press, London, 1998.

³ Letter from the district land development officer, Reference No. MS/6427/7/JMV of September 1975. *Source*: Moshi Municipal Council archive. Letter from the regional medical officer, Reference No. G2/38/259, dated 26 July 1975, is quoted in the district land development officers letter. *Source*: Moshi Municipal Council archive.

⁴ Letter from the zonal town planning officer to the district land development officer, Reference No. TP/4/13/47, dated 22 October 1975.

⁵ Letter from the district land development officer, Reference No. MS/6427/7/JMV of September 1975. *Source*: Moshi Municipal Council archive. Letter from the regional medical officer, Reference No. G2/38/259, dated 26 July 1975, is quoted in the district land development officers letter. *Source*: Moshi Municipal Council archive.

⁶ Before decentralization, such land would be allocated to the ministry of works, which was the custodian of government estates. Saving No. LD/41554/IV/23/GVSC, dated 29 August, referred in Letter, Reference No. CW, 33120/32, dated 1 November 1974. *Source*: Kilimanjaro Regional Land Development Office archive.

⁷ Letter from the Kilimanjaro regional land development officer to the regional development director, Reference No. KMS/503/69/JAM, dated 3 November 1975. *Source*: Moshi Municipal Council archive.

⁸ Letter from the village chairman to the district commissioner, dated 23 February 1978. *Source*: Moshi Municipal council archive and an interview with the councilor for Longuo ward.

⁹ In 1963, the government converted all freehold titles into government leases. As leases would restrain the holders from treating their land as private property as they used to, some freeholders of land, mostly foreigners, abandoned their lands and left the country.

¹⁰ Letter from the village chairman to the district commissioner, dated 23 February 1978. *Source*: Moshi Municipal council archive and an interview with the councilor for Longuo ward

¹¹ Letter from the district commissioner to the village chairman, Reference No. L.20/15/III/135, dated 21 April 1978. *Source*: Moshi Municipal Council archive.

¹² Minutes of an emergency meeting of Mawenzi Hospital administrators, dated 23 January 1991. *Source*: Ministry of Lands, Housing and Urban Development archive.

¹³ Letter from the regional development director to the principal secretary, Ministry of Health, Reference No. L.20/20A/III/16, dated 3 April 1991. *Source*: Kilimanjaro Regional Land Development archive.

¹⁴ *Ibid.*

¹⁵ Letter, Reference No. KMS/50/266/ES, dated 6 April 1991. *Source*: Kilimanjaro Regional Land Development archive.

¹⁶ Minutes of the regional land allocation committee held on 19 August 1993. In this minute it is recorded that the regional medical officer accepted the subdivision of the psychiatric patients and area into residential plots, except for a small area for gardening, etc. *Source*: Kilimanjaro Regional Land Development Office archive.

¹⁷ Letter, Reference No. TC/TP/I/VOL.II/244, dated 9 August 1991. *Source*: Moshi Municipal Council archive.

¹⁸ The Arusha Declaration was adopted in 1967, as a blueprint for socialist transformation in Tanzania. The adoption of this declaration entailed nationalization of the major means of production, including

industries, large-scale farms, financial institutions, some buildings, etc. Mechanisms were also instituted to ensure an equitable distribution of income through progressive taxation. To restrain leaders from amassing wealth by using the powers entrusted to them by the people, a leadership code was formulated. In 1992, this code was relaxed, allowing political leaders and senior government officials to start doing the opposite.

¹⁹ Interview with the councilor for Longuo.

²⁰ Letter, Reference No. TP/R/4/III/224, dated 23 October 1991. *Source*: Directorate of Urban Development, Ministry of Lands, Housing and Urban Development.

²¹ Letter, Reference No. HEL/L/80/338, dated 23 October 1991. *Source*: Directorate of Urban Development, Ministry of Lands, Housing and Urban Development.

²² Letter, Reference No. HEL/L80/1/339, dated 23 October 1991. *Source*: Directorate of Urban Development, Ministry of Lands, Housing and Urban Development.

²³ Letter, Reference No. L.20/20A/III/186, dated 24 December 1991. *Source*: Kilimanjaro Regional Land Development Office archive.

²⁴ Memo from the principal secretary to the director of urban development, dated 9 January 1992. *Source*: Urban Development Directorate, Ministry of Lands, Housing and Urban Development.

²⁵ Letter, Reference No. TP/R/4/III/221, dated 15 January 1992.

²⁶ Memo from the minister to the principal secretary, dated 16 January 1992. *Source*: Urban Development Directorate, Ministry of Lands, Housing and Urban Development archive.

²⁷ Memo from the principal secretary to the director of urban development, dated 14 January 1992. *Source*: Urban Development Directorate, Ministry of Lands, Housing and Urban Development.

²⁸ Letter, Reference No. TP/R/4/III/221, dated 15 January 1992.

²⁹ *Ibid.*

³⁰ Interview with the Longuo councilor.

³¹ Interview with the planner in the Regional Office.

³² *Ibid.*

³³ Letter from the regional town planning officer to the municipal planner.

³⁴ When this area was allocated to the Ministry of Health, it was already within the town boundary.

³⁵ Minutes of the urban planning committee meeting held on 2 March 1992. *Source*: Moshi Municipal Council archive.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Letter, Reference No. MMC/ T.20/1/x111/44, dated 27 March 1992. *Source*: Moshi Municipal Council archive.

Chapter 12

¹ Fyrbjerg, B., *Rationality and Power, Democracy in Practice*. The University of Chicago Press, 1998, p. 226.

² North, C.D., *Institutions, Institutional Change and Economic Performance*. Cambridge University Press, New York, 1990, p. 58, quoted in Putnum, R., *Making Democracy Work: Civic Traditions in Italy*, Princeton University Press, 1993, p. 165.

³ Report dated 14 April 1992, written by the director of urban development upon returning to office after a visit to the psychiatric patients' site on 10 March 1992. *Source*: Directorate of Urban Development, Ministry of Lands, Housing and Urban Development.

⁴ *Ibid.*

⁵ Minute 6, dated 16 April 1992, from the director of urban development to the principal secretary, Ministry of Lands, Housing and Urban Development. *Source*: Ministry of Lands, Housing and Urban Development archive.

⁶ Letter, Reference No. HEH/64/1/15, dated 28 May 1992. *Source*: Ministry of Lands, Housing and Urban Development archive.

⁷ Letter, Reference No. TP/01/251, dated 30 July 1992. *Source*: Moshi Municipal Council archive.

⁸ John 18-19:6 Holy Bible 1976 edition. University Press Cambridge, p. 133.

⁹ Minutes of the regional land allocation committee meeting held on 28 April 1993. *Source*: Kilimanjaro Regional Land Development Office archive.

¹⁰ Oysterbay and Mbezi are upper-class housing areas in Dar es Salaam city. A major part of Oysterbay was built by the British colonial masters for their own residence. Mbezi is an expensive middle- and upper-class housing area being developed by individual developers.

¹¹ Minutes of the regional land allocation committee meeting held on 19 August 1996.

¹² Interview with a member of the land allocation committee, who requested anonymity.

¹³The name Shanty Town has no relation whatsoever to the quality of the present environment, because this is an upper-class neighbourhood for the rich and executives. The name Shanty comes from the few shanties for labourers which existed when this area was occupied by white farmers before independence in 1961.

¹⁴Letter from a resident, dated 17 May 1993. *Source: Mfanyakazi*, 17 July 1993.

¹⁵*Ibid.*

¹⁶Letter, Reference No. NCCR-M/KL/01/vol /F1, dated 6 July 1993, from the chairman of the NCCR, Mageuzi, Kilimanjaro region, to the regional commissioner.

¹⁷*Mfanyakazi* newspaper No. 11610, Saturday 17 July 1993.

¹⁸80 Fairy Tales by Hans Christian Andersen Making the Emperor's New Clothes, 1976 pp. 64–67.

¹⁹*Mfanyakazi* newspaper No. 11611, Monday 21 July 1993.

²⁰*Ibid.*

²¹Interview with a member of the regional land allocation committee.

²²Minutes of the land allocation committee meeting held on 19 August 1993. *Source: Kilimanjaro Regional Land Development Office archive.*

²³Interview with the councilor for Longuo.

²⁴The Town and Country Planning (Modifications of Planning Schemes) Regulations, 1964 stipulates “where a scheme has been approved by the minister under Sections 31 and 32 of the Ordinance and where the minister is satisfied that it is in the public interest that a planning consent which does not accord with the scheme should be granted, he may authorize the grant of planning consent so long as: (a) it does not conflict with the general intentions of the schemes; (b) it does not involve a substantial departure from the provisions of the scheme and (c) it does not injuriously affect the amenities of the adjoining land”.

²⁵*Ibid. Supra* note 1.

Chapter 13

¹Letter, Reference No. TEXCO/24, dated 7 December 1993, from TEXCO to the Moshi Town director. *Source: Moshi Municipal Council.*

²Letter, Reference No. KMSC/7/IV/SF.1/102/ES, dated 9 January 1992. *Source: Kilimanjaro Regional Land Development Office.*

- ³ Letter, Reference No. L20/20A/IV/95, dated 9 October 1992. *Source*: Kilimanjaro Regional Land Development Office.
- ⁴ Letter, Reference No. CS/TEXCO/S.2, dated 23 December 1991. *Source*: Kilimanjaro Regional Land Development Office.
- ⁵ Minute No. 22/92 of the regional land allocation committee meeting held on 22 September 1992. *Source*: Kilimanjaro Regional Land Development Office.
- ⁶ Letter, Reference No. L20/20A/IV/95, dated 9 October 1992. *Source*: Ministry of Lands, Housing and Urban Development archive.
- ⁷ Letter, Reference No. KAFL/7/3/93, dated 17 July 1993. *Source*: Kilimanjaro Regional Land Development Office.
- ⁸ *Ibid.*
- ⁹ Letter, Reference No. LD/105565/10/TGM, dated 9 September 1993. *Source*: Kilimanjaro Regional Land Development Office.
- ¹⁰ Letter, Reference No. KLD/JJJ/V/76/42/ES, dated September 1993. *Source*: Kilimanjaro Regional Land Development Office.
- ¹¹ Councilor for Longuo and the mayor of Moshi municipal council.
- ¹² Letter, Reference No. KAFL/14/11/93, dated 29 November 1993. *Source*: Regional Land Development Office.
- ¹³ *Ibid.*
- ¹⁴ Letter, Reference No. MM/KL.1/P7/4/11/10, dated 3 December 1993. *Source*: Kilimanjaro Regional Town Planning Office.
- ¹⁵ *Ibid.*
- ¹⁶ Letter, Reference No. KLD/JJJ/V/76/51, dated 28 December 1995, from the Regional Land Development Officer to the Regional Town Planning Officer.
- ¹⁷ Letter, Reference No. CS/TEXCO/24, dated 7 December 1994. *Source*: Moshi Municipal Council.
- ¹⁸ Letter, Reference No. MM/KL.1/II/12, dated 8 February 1994. *Source*: Regional Land Development Office.
- ¹⁹ Letter, Reference No. L.20/4/III/117, dated 18 March 1994. *Source*: Regional Land Development Office.
- ²⁰ Letter, Reference No. KLD/JJJ/V/76/6/ES, dated 24 March 1994. *Source*: Regional Land Development Office.
- ²¹ Letter without Reference No., dated 28 March 1994. *Source*: Regional Land Development Office.
- ²² Letter of land application from the developer, Reference No. KAFL/5/3/94, dated 28 March 1994.
- ²³ Councilor for Longuo and mayor of the Moshi municipal council.
- ²⁴ Minutes of urban planning committee meeting held on 30 March 1994. *Source*: Moshi Municipal Council.

²⁵ *Ibid.*

²⁶ Letter, Reference No. MMC/T.20/1 Vol.XIV/25, dated 31 March 1994. *Source:* Moshi Municipal Council.

²⁷ Minute 4/94 of the land allocation committee meeting held on 18 April 1994. *Source:* Regional Land Development Office.

²⁸ Letter, Reference No. MMC/LD/T.1/Vol.1/50, dated 11 May 1994. *Source:* Moshi Municipal Council.

²⁹ Letter, Reference No. MM/KL.1/Tp.4/II/21, dated 12 May 1994. *Source:* Regional Town Planning Office.

³⁰ Letter, Reference No. TP/R/4/IV/148, dated 1 June 1994. *Source:* Moshi Municipal Council.

³¹ Letter, Reference No. TP/R/4/IV/158, dated 29 July 1994. *Source:* Moshi Municipal Council.

³² Minutes of meeting held in the office of the director of urban development on 30 August 1994. *Source:* Urban Development Directorate.

³³ Letter, Reference No. KLD/JJJ/V/76/85, dated 29 September 1994.

Chapter 14

¹ Quoted in Taylor, N., *Review of Ethical Land Use: Principles of Policy and Planning*. Timothy Beatley, Baltimore, Johns Hopkins University Press, 1995, p. 221.

² McAuslan, P., *The Role of Law in Urban Planning*. In Devas, N. and Rakodi, C. (eds.), *Managing Fast Growing Cities in Developing Countries, New Approaches to Urban Planning and Management in Developing World*. 1993, pp. 241 and 246.

³ Letter from the Msaranga residents' committee dated 26 July 1991.

⁴ Letter from the residents' committee to the minister for home affairs dated 26 July 1991. *Source:* Msaranga Residents' Committee archive.

⁵ Letter from the Msaranga chairman to the minister for home affairs dated 14 August 1991.

⁶ Court proceedings, 29 August 1991.

⁷ Letter, Reference No. TLC/A/16/MTC/11, dated 2 September 1991, written by counsel for the defence to the Moshi municipal director.

⁸ Letter, Reference No. TP/01/25/251, dated 25 September 1991.

⁹ Letter, Reference No. KL/C/140/0/224, dated 18 December 1991.

¹⁰ *Ibid.*

¹¹ Interview with Peniel Macha, former chairman of Msaranga.

¹² Court proceedings, 17 September 1992.

- ¹³ Court proceedings, 28 September 1992.
- ¹⁴ Court proceedings, 18 October 1992.
- ¹⁵ Court proceedings, 28 October 1992.
- ¹⁶ Court proceedings, January 1993.
- ¹⁷ Letter from Dr Kiwelu, dated 27 January 1993.
- ¹⁸ Minutes of regional land allocation committee meeting held on 28 April 1993.
- ¹⁹ Court proceedings, 30 April 1993.
- ²⁰ Court proceedings, 20 May 1993.
- ²¹ Statement of defence filed by counsel for the defence on 13 August 1993.
- ²² Court proceedings, 25 August 1993.
- ²³ Court proceedings, 14 September 1995.
- ²⁴ Court proceedings, 26 October 1995.
- ²⁵ Minutes of regional land allocation committee meeting held on 28 April 1993.
- ²⁶ Written submission by counsel for the defence in reply to the submission of the counsel for the plaintiffs.
- ²⁷ *Ibid.*
- ²⁸ Court proceedings, 13 January, 4 February, 18 March, 14 June and 14 July 1994.
- ²⁹ Interview with Peniel Macha, former chairman of Msaranga.
- ³⁰ Interview with Mrema, J.
- ³¹ Interview with Dr Shao.
- ³² Letter, Reference of November 1994.
- ³³ Judgement delivered by the District Resident Magistrate in Moshi on 11 November 1994.
- ³⁴ *Ibid.*
- ³⁵ *Ibid.*
- ³⁶ *Ibid.*
- ³⁷ Decree issued by Senior Resident Magistrate, in respect of Civil Case No. 56/1993, Msaranga, Kikarara and Mdawi village councils versus Moshi municipal council, dated 22 December 1994.
- ³⁸ Interview with Kiwelu, D.
- ³⁹ Interview with Maro, J.
- ⁴⁰ Letter, Reference No. MMC/J.10/1, dated 2 December 1994.
- ⁴¹ Judgement on an application for a stay of execution delivered by the District Magistrate's court at Moshi on 14 July 1995.
- ⁴² Minute two and six to the director of urban development on 5 November 1992 and 6 November 1992, respectively.

⁴³ Discussion with the head of the planning department, 17 September 1996.

⁴⁴ Proceedings of a one day workshop on the preparation of Moshi Sustainable Project, 28 March 1996. This workshop was organized by consultants from the Centre for Human Settlements, Ardhi Institute, p. 11.

⁴⁵ *Ibid.*, pp. 13–14.

⁴⁶ Kobia, S., *The Quest for Democracy in Africa*. National Council of Churches of Kenya, Nairobi, p. 3.

⁴⁷ *Ibid.*, p. 2.

⁴⁸ Flyvbjerg, B., *Empowering Civil Society: Habermas, Foucault and the Question of Conflict*. Paper for a symposium in celebration of John Friedmann, University of California, Los Angeles, 11–13 April 1996, p. 18.

⁴⁹ McAuslan, P., *The Role of Law in Urban Planning*. In Devas, N. and Rakodi, C. (eds.), *Managing Fast Growing Cities in Developing Countries, New Approaches to Urban Planning and Management in Developing World*. Longman Scientific & Technical, UK, 1993, p. 241.

Chapter 15

¹ UNCHS (Habitat) and UNEP, *The SCP Process Activities; A Snapshot of What They Are and How They Are Implemented*. SCP Source Book Series, 1999.

² UNCHS (Habitat) and UNEP, *Preparing the SCP Environmental Profile*, SCP Source Book Series, Volume 1, 1999.

³ UNCHS (Habitat) and UNEP, *Organizing, Conducting and Reporting an SCP City Consultation*. SCP Source Book Series, Volume 2, 1999.

⁴ UNCHS (Habitat) and UNEP, *Formulating Issue Specific Strategies and Action Plans*. SCP Source Book Series, Volume 4, 1999.

⁵ UNCHS (Habitat) and UNEP, *Establishing and Supporting a Working Group Process*. SCP Source Book Series, Volume 3, 1999.

⁶ Kitilla, M.L.D., *Preparation of Strategic Urban Development Plan for Dar es Salaam City*. 2003.

⁷ Forester, J., *Critical Theory and Planning Practice, in Critical Theory and Public Life*. The MIT Press, Cambridge, Massachusetts and London, England, 1984.

⁸ Healey, P., *Planning Through Debate: The Communicative Turn in Planning Theory*. In Fischer, F. and Forester, J. (eds.), *The Argumentative Turn in Policy Analysis and Planning*. UCL Press, 1993.

⁹ Watson, V., *The Usefulness of Normative Planning Theories*, in *Planning Theory*. Volume 1, No. 1, Sage Publications, 2002.

¹⁰ John, B.M. and Barbra, C.C., *Leadership for the Common Good, Tackling Public Problems in a Shared Power World*. Jossey-Bass Publishers, San Francisco, 1992.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ UN-Habitat, *Good Urban Governance: A Normative Framework, Summary for the Preparatory Committee for the Special Session of the General Assembly for an Overall Review and Appraisal of the Implementation of the Habitat Agenda*, Nairobi, 2001.

¹⁴ *Ibid.*

¹⁵ Flyvbjerg, B., *Empowering Civil Society: Habermas, Foucault and the Question of Conflict*. Paper for symposium in celebration of John Friedmann, University of California, Los Angeles, 1996.

¹⁶ Bent Flyvbjerg's reference to power follows Michel Foucault's conceptualization: "... Power is ... productive/positive and not simply as restrictive/negative, ... a dense net of omnipresent relations and not simply as localized in 'centres' or as an entity one can 'possess'. ... a ultra-dynamic; ... not something one appropriates, but something one re-appropriates and exercises in a constant back and forth movement in relations of strength, tactics and strategies. ... [That] knowledge and power, truth and power, rationality and power are analytically inseparable from each other; power produces knowledge and knowledge produces power. ... The central question is how power is exercised and not primarily who has power and why they have it, the focus is on process rather than structure. ... Power is studied with point of departure in small questions, 'flat and empirical', instead of with a point of departure in 'big questions'".

¹⁷ In a paper titled "Problems of Moshi Municipality and the Master Plan's Failure to Address Them" presented to the workshop by the municipal planner, it is acknowledged that the exclusion of stakeholders in the planning process had contributed to the failure to guide and manage development in the urban fringe where land is occupied under the customary land tenure.

¹⁸ The author of this book was responsible, on behalf of UCLAS, for assisting Moshi Municipal Council to introduce the collaborative environmental planning and management approach in the municipality. He specifically participated in sensitization of stakeholders, backstopping

council experts and officials in the preparation of municipal environmental profile and organizing municipal consultation held in January 1999. He has since been monitoring and promoting change in the planning practice in the municipality and other urban areas.

¹⁹ Masembejo, L., *Environmental Planning and Management in Moshi Municipality 1996–2003*

²⁰ Interviews with Miembeni sub-ward chairman; municipal planner and surveyor.

Chapter 16

¹ Foucault, M., *Colloqui con Foucault* (Salerno, 1991), quoted from Flyvbjerg, B., *Empowering Civil Society: Habermas, Foucault and the Question of Conflict*. Paper for a symposium in celebration of John Friedmann, University of California, Los Angeles, 1996, p. 15.

² Platt, J., *Cases of Cases ... of Cases*, in *What Is a case?* In Ragin, C. and Becker, H. (eds.), Cambridge University Press, 1992, p. 48.

³ Flyvbjerg, B., *Science of the Concrete: A Science of the Context, the Particular and Narrative*. Draft (3.0), Chapter 2:7, 1995, p. 8.

⁴ *Ibid.*, p. 10.

⁵ Foucault, M., *The History of Sexuality*. Volume 1, p. 93, quoted in Flyvbjerg, B., *Science of the Concrete: A Science of the Context, the Particular and Narrative*. Draft (3.0), Chapter 2:7, 1995, p. 10.

⁶ Kobia, S., *The Quest for Democracy in Africa*. National Council of Churches of Kenya, Nairobi. p. 3.

⁷ Healey, P.P., *Planning Through Debate: The Communicative Turn in Planning Theory*. In Fischer, F. and Forester, J. (eds.), *The Argumentative Turn in Policy Analysis and Planning*. UCL Press, 1993, p. 234.

⁸ Flyvbjerg, B., *Rationality and Power, Democracy in Practice*. The University of Chicago Press, 1998.

⁹ *Ibid.*

¹⁰ See North, D., Quoted in Putnam, R., *Making Democracy Work: Civic Traditions in Italy*. Princeton University Press, 1993, p. 165.

¹¹ Kironde, L., *The Evolution of the Dar es Salaam Land-Use Structure 1890–1990: A Study in the Effects of Land Policy*. Unpublished Ph.D. Dissertation, Nairobi, 1995, Chapter 10, pp. 3–4.

¹² Unlike the Land Ordinance Cap. 113 of 1923, the Land Act No. 4 of 1999 recognizes that land has exchange value. Thus in case of

displacement of land rights the holder is entitled to full and fair compensation. This official recognition of land value presents a changed and more fair and just context for planning.

¹³A recent planning study of Makongo informal settlement in Dar es Salaam by Marco Burra shows a resistance mounted by residents of the area against implementation of a layout plan prepared by the Ministry of Lands, Housing and Settlements Development in the 1990s. The plan disregarded individual land rights and residents were not involved in the planning of their settlement. See Marco Burra (2005) *Community Initiatives in Settlement Planning and Management, Case of Makongo in Dar es Salaam*.

¹⁴Nnkya, T. *Planning Practice in 12 Towns in Tanzania: Preliminary Findings*, Working paper No 1, Department of Human Settlements, Royal Danish Academy of Fine Arts, Copenhagen, 1993

¹⁵United Republic of Tanzania, *Land Ordinance Cap. 113*.

¹⁶United Republic of Tanzania: *Town and Country Planning Ordinance Cap. 378*.

¹⁷United Republic of Tanzania, *Report of the Presidential Commission of Inquiry into Land Matters*. Ministry of Lands, Housing and Urban Development, 1992, p. 71.

¹⁸*Ibid.*

¹⁹Quoted in Fimbo, M., *Planned Development versus Customary Law in Tanzania*. Paper presented to a regional conference on Urbanization strategies for the SADCC countries, organized by the Tanzania Planners Association and the Commonwealth Association of Planners, 1988. See also Kombe, W.J., *Formal and Informal Land Management in Tanzania, the Case of Dar es Salaam City*. Ph.D. Dissertation, University of Dortmund, 1995, p. 76. According to Kombe, Nyagwasa had bought land from a third party in Mbezi area in Dar es Salaam. After the area had been declared a planning area without third-party interests on the land having been cleared, Nyirabu was granted a certificate of occupancy over the same parcel of land which was held by Nyagwasa. The latter filed a law suit against Nyirabu.

²⁰United Republic of Tanzania, *Town and Country Planning Ordinance Cap. 378*, Section 45.

²¹Machiavelli, *The Prince*, Chapter 15, p. 91, quoted in Fyvbjerg, *Rationality and Power, Planning and Democracy in Practice*, 1996, Chapter 23, p. 182.

²²North, D.C. Quoted in Putnum, R., *Making Democracy Work: Civic Traditions in Italy*. Princeton University Press, 1993, p. 165.

- ²³ Extract from a speech made by the President of the United Republic of Tanzania, Benjamin William Mkapa, at the official inauguration of the physical development and rehabilitation of the Ardhi Institute, Dar es Salaam, on 8 March 1996.
- ²⁴ Friedmann, J., *Planning in the Public Domain: From Knowledge to Action*. Princeton University Press, 1987.
- ²⁵ Healey, P., *Planning through Debate: The Communicative Turn in Planning Theory*, *Town-Planning Review*, Volume 63, No. 2, 1992.
- ²⁶ Saunders, P., *Urban Politics: A Sociological Interpretation*. Hutchinson University Library, 1983, p. 153.
- ²⁷ *Ibid.*, p. 25.
- ²⁸ *Ibid.*
- ²⁹ McAuslan, P., *The Role of Law in Urban Planning*. In Devas, N. and Rakodi, C. (eds.), *Managing Fast-Growing Cities: New Approaches to Urban Planning and Management in the Developing World*. Longman Scientific and Technical Publishers, 1993, p. 240.
- ³⁰ *Ibid.*, p. 246.
- ³¹ *Ibid.*, p. 240.
- ³² McAuslan, P., *Institutional/Legal Options for Administration of Land Development*. Nairobi, UNCHS-Habitat, 1991, p. 71.
- ³³ Hans Christian Andersen, 80 Fairy Tales, Skandinavisk Bogforlag, Flensteds Forlag, Denmark, 1976, pp. 64–68.
- ³⁴ Forester, J., *Planning in the Face of Power*, University of California Press, Ltd., London, England, 1989, p. 29.
- ³⁵ Weaver, C., Jessop, J. and Das, V., *Rationality in the Public Interest: Notes Toward a New Synthesis*. In Breheny, M. and Hooper, A. (eds.), *Rationality in Planning*, 1985. The authors define positive knowledge as information acquired about the environment based on deductive reasoning, empirical observation and experimentation.
- ³⁶ Alexander, E.R., *The Non-Euclidean Mode of Planning: What Is It to Be?* *American Planners Association Journal*. 1994. pp. 1–2.
- ³⁷ Baum, S.H., *Practising Planning Theory in a Political World*. Urban Studies and Planning Programme, University of Maryland.
- ³⁸ Healey, P., *Development plans: New Approaches to Making Frameworks for Land Use Regulation*. *Journal of European Planning Studies*, 1994.
- ³⁹ See Baum, S.H., *Practicing planning theory in a political World*. Urban Studies and Planning Program, University of Maryland, pp. 1–5 (undated).
- ⁴⁰ Interview with Msaranga Village Chairman
- ⁴¹ Friedmann, J., *Planning in the public domain: From knowledge to action*. Princeton University Press, 1987.

⁴² *Ibid.*

⁴³ Flyvbjerg, B., *Empowering Civil Society: Habermas, Foucault and the Question of Conflict*. Paper for a symposium in celebration of Friedmann, J., University of California, Los Angeles, 11–13 April 1996, p. 18.

⁴⁴ Tocqueville quoted in Putnum, R., *Making Democracy Work: Civic traditions in Modern Italy*. Princeton University Press, New Jersey, 1993, p. 182.

⁴⁵ See Putnum, R., *Making Democracy Work: Civic traditions in Modern Italy*. Princeton University Press, New Jersey, 1993, p. 182.

Why Planning Does Not Work presents a detailed account of land use planning practice in the context of public land ownership policy in Tanzania. Applying the case method and narratology in the exploration and presentation of planning practice, the reader is taken across a terrain of power struggles over land value, between actors in the planning system and residents whose right to participate in the planning process and to protect their land tenure rights, economic interests and socio-cultural values are disregarded. Only through protracted struggles organized by courageous civil society against domination, deprivation, misuse and abuse of powers, is planning with, rather than for people finally made to work. Although the study is about a specific area in Tanzania, it will be found to reflect undoubtedly on practices in other countries and communities where democracy is weak or non-existent.

Tumsifu Jonas Nnkya is Senior Lecturer of urban planning and management at Ardhi University, Dar es Salaam, Tanzania

"This is deeply a fascinating study, and one of the best on the relation between policy/plans and what actually goes on that I have seen. The narrative approach works very well...A particular merit of the study is the way it follows issues up into the legal as well as administrative arenas."

—Patsy Healey, University of New Castle Upon Tyne

"...a fascinating story of how planning functions, and land use control in particular, ...Nnkya adopts an ethnographic approach in order to examine the interplay of technical planning, power and politics...and the way in which it affected, and was affected by, those subjected to land use management around the town. ...The narrative clearly shows how planning became the locus of power struggle over land value..."

—Vanessa Watson, University of Cape Town, South Africa



Mkuki na Nyota Publishers
P.O. BOX 4246
Dar es Salaam, Tanzania
www.mkukinyota.com

ISBN 978-9987-449-68-2



9 789987 449682